



City of Hamilton
PUBLIC WORKS COMMITTEE
AGENDA

Meeting #: 23-003
Date: February 13, 2023
Time: 1:30 p.m.
Location: Room 264, 2nd Floor, City Hall (hybrid) (RM)
71 Main Street West

Carrie McIntosh, Legislative Coordinator (905) 546-2424 ext. 2729

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13. NOTICES OF MOTION**14. GENERAL INFORMATION / OTHER BUSINESS**

- 14.1 Amendments to the Outstanding Business List

- a. Items Considered Complete and Needing to be Removed:

- a. 2023 Lymantria dispar dispar (LDD) Moth Treatment Plan

Addressed as Item 9.1 on today's Agenda - Report PW21069(b)
Item on OBL: ACO

- b. Accessible Transportation Services and the Disabled and Aged Regional Transportation Service

Addressed as Item 11.2 on today's Agenda - Report PW23009
Item on OBL: ACT

15. PRIVATE AND CONFIDENTIAL

16. ADJOURNMENT



PUBLIC WORKS COMMITTEE

MINUTES 23-001

1:30 p.m.

Monday, January 16, 2023

Council Chambers

Hamilton City Hall

71 Main Street West

Present: Councillors J. Beattie, C. Cassar, J. P. Danko, M. Francis, T. Jackson, C. Kroetsch, T. McMeekin, N. Nann, E. Pauls, M. Spadafora, A. Wilson, M. Wilson

THE FOLLOWING ITEMS WERE REFERRED TO COUNCIL FOR CONSIDERATION:

1. Accessible Transportation Services Performance Report (PW22079(a)) (City Wide) (Item 9.1)

(Spadafora/A. Wilson)

That Report PW22079(a), respecting Accessible Transportation Services Performance Report, be received.

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

- Yes - Ward 1 Councillor Maureen Wilson
- Yes - Ward 2 Councillor Cameron Kroetsch
- Yes - Ward 3 Councillor Nrinder Nann
- Yes - Ward 5 Councillor Matt Francis
- Yes - Ward 6 Councillor Tom Jackson
- Yes - Ward 7 Councillor Esther Pauls
- Yes - Ward 8 Councillor J. P. Danko
- Yes - Ward 10 Councillor Jeff Beattie
- Yes - Ward 12 Councillor Craig Cassar
- Yes - Ward 13 Councillor Alex Wilson
- Yes - Ward 14 Councillor Mike Spadafora
- Yes - Ward 15 Councillor Ted McMeekin

2. 2023 Volunteer Committee Budget - Keep Hamilton Clean and Green Committee (PW23002) (City Wide) (Item 11.1)

(Jackson/Pauls)

That the Keep Hamilton Clean and Green Committee's 2023 base budget submission, attached as Appendix "A" to Report PW23002, in the amount of \$18,250 representing a zero-net levy impact from the previous year budget, be referred to the 2023 operating budget process for consideration.

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

Yes - Ward 1 Councillor Maureen Wilson
 Yes - Ward 2 Councillor Cameron Kroetsch
 Yes - Ward 3 Councillor Nrinder Nann
 Yes - Ward 5 Councillor Matt Francis
 Yes - Ward 6 Councillor Tom Jackson
 Yes - Ward 7 Councillor Esther Pauls
 Yes - Ward 8 Councillor J. P. Danko
 Yes - Ward 10 Councillor Jeff Beattie
 Yes - Ward 12 Councillor Craig Cassar
 Yes - Ward 13 Councillor Alex Wilson
 Yes - Ward 14 Councillor Mike Spadafora
 Yes - Ward 15 Councillor Ted McMeekin

3. Funds Required for Award of Tender C15-01-22 (P) Mountain Brow Trail Initiative #4 (PW23003) (Ward 14) (Item 11.2)

(Spadafora/Beattie)

- (a) That the budget for Mountain Brow Trail Initiative #4 project (#4401756703) be increased by \$436,914.50; and
- (b) That the requested increase be funded by an appropriation transfer from the previously approved HRTMP Initiative 7-1 Limeridge Hydro Trail project (#4401956929).

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

Yes - Ward 1 Councillor Maureen Wilson
 Yes - Ward 2 Councillor Cameron Kroetsch
 Yes - Ward 3 Councillor Nrinder Nann
 Yes - Ward 5 Councillor Matt Francis
 Yes - Ward 6 Councillor Tom Jackson
 Yes - Ward 7 Councillor Esther Pauls
 Yes - Ward 8 Councillor J. P. Danko
 Yes - Ward 10 Councillor Jeff Beattie

Yes - Ward 12 Councillor Craig Cassar
 Yes - Ward 13 Councillor Alex Wilson
 Yes - Ward 14 Councillor Mike Spadafora
 Yes - Ward 15 Councillor Ted McMeekin

4. Truck Route By-law Amendment (PW23005) (City Wide) (Outstanding Business List) (Item 11.3)

(Kroetsch/M. Wilson)

That the draft Amending By-law, attached as Appendix "A" to Report PW23005 (which amends the City of Hamilton Traffic By-law 01-215), which has been prepared in a form satisfactory to the City Solicitor, be approved.

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

Yes - Ward 1 Councillor Maureen Wilson
 Yes - Ward 2 Councillor Cameron Kroetsch
 Yes - Ward 3 Councillor Nrinder Nann
 Yes - Ward 5 Councillor Matt Francis
 Yes - Ward 6 Councillor Tom Jackson
 Yes - Ward 7 Councillor Esther Pauls
 Yes - Ward 8 Councillor J. P. Danko
 Yes - Ward 10 Councillor Jeff Beattie
 Yes - Ward 12 Councillor Craig Cassar
 Yes - Ward 13 Councillor Alex Wilson
 Yes - Ward 14 Councillor Mike Spadafora
 Yes - Ward 15 Councillor Ted McMeekin

5. Improvements to Hampton Park, 28 Lupin Avenue, Hamilton (Ward 6) (Item 12.1)

(Jackson/Francis)

WHEREAS, the play structures at Hampton Park, 28 Lupin Avenue, Hamilton have become worn out;

WHEREAS, a new Hampton Park Citizens Committee (HPCC) has been established, and is working with the Ward 6 Councilor's office to support and inform improvements to Hampton Park;

WHEREAS, these community amenities are valuable recreation opportunities for children, youth and families within the Hampton Heights Neighbourhood, and the greater Ward 6 community; and

WHEREAS, this project will be added to the Parks & Cemeteries work plan, with community engagement for the play structure replacement commencing in 2023.

THEREFORE, BE IT RESOLVED:

- (a) That replacement of the existing play structures at Hampton Park, 28 Lupin Avenue, Hamilton, at a cost of \$250,000 including contingency, to be funded from the Ward 6 Special Capital Re-Investment Reserve (#108056), be approved; and
- (b) That the Mayor and City Clerk authorized and directed to approve and execute any and all required agreements and ancillary documents, in relation to the replacement of play structures at Hampton Park, 28 Lupin Avenue, Hamilton, with such terms and conditions satisfactory to the City Solicitor.

Result: MOTION, CARRIED by a vote of 11 to 0, as follows:

Yes - Ward 1 Councillor Maureen Wilson
 Yes - Ward 2 Councillor Cameron Kroetsch
 Yes - Ward 3 Councillor Nrinder Nann
 Yes - Ward 5 Councillor Matt Francis
 Yes - Ward 6 Councillor Tom Jackson
 Yes - Ward 7 Councillor Esther Pauls
 Yes - Ward 8 Councillor J. P. Danko
 Yes - Ward 10 Councillor Jeff Beattie
 Yes - Ward 12 Councillor Craig Cassar
 Yes - Ward 13 Councillor Alex Wilson
 Yes - Ward 14 Councillor Mike Spadafora
 Not Present - Ward 15 Councillor Ted McMeekin

6. Removal of Berms at Bernie Morelli Recreation Centre and Bernie Custis Secondary School, 1089 King Street East, Hamilton (Ward 3) (Item 12.2)

(Nann/M. Wilson)

WHEREAS, Report PW22082, respecting the Berms at the Bernie Morelli Recreation Centre and Bernie Custis Secondary School (Joint City – Hamilton-Wentworth District School Board Report), was received at the Hamilton-Wentworth District School Board Liaison Subcommittee meeting on September 12, 2022;

WHEREAS, the Hamilton-Wentworth District School Board staff have confirmed that they have authority to cover \$32,500, or 50% of the funds required for removal of the berms;

WHEREAS, the City does not have a funding source to cover the remaining 50%, or \$32,500; and

WHEREAS, removal of these berms enables the green space between both facilities to be more conducive to multi-use, outdoor activity that would benefit student physical activity and education throughout the school year, and enable diverse programming for all ages in the summer at the recreation centre.

THEREFORE, BE IT RESOLVED:

- (a) That the Berm Removal project for Bernie Morelli Recreation Centre and Bernie Custis Secondary School, located at 1089 King Street East, Hamilton, to be funded from the Ward 3 Capital Discretionary Account 3302109300, at an upset limit, including contingency, not to exceed \$32,500, be approved;
- (b) That staff be authorized and directed to enter into a cost sharing agreement with the Hamilton-Wentworth District School Board to confirm the conditions of the funding, the removal of the berms and the ongoing maintenance at Bernie Morelli Recreation Centre and Bernie Custis Secondary School, located at 1089 King Street East, Hamilton; and,
- (c) That the Mayor and City Clerk be authorized and directed to approve and execute any and all required agreements and ancillary documents in relation to the removal of berms at Bernie Morelli Recreation Centre and Bernie Custis Secondary School, located at 1089 King Street East, Hamilton, with such terms and conditions satisfactory to the City Solicitor.

Result: MOTION, CARRIED by a vote of 11 to 0, as follows:

Yes - Ward 1 Councillor Maureen Wilson
 Yes - Ward 2 Councillor Cameron Kroetsch
 Yes - Ward 3 Councillor Nrinder Nann
 Yes - Ward 5 Councillor Matt Francis
 Yes - Ward 6 Councillor Tom Jackson
 Yes - Ward 7 Councillor Esther Pauls
 Yes - Ward 8 Councillor J. P. Danko
 Yes - Ward 10 Councillor Jeff Beattie
 Yes - Ward 12 Councillor Craig Cassar
 Yes - Ward 13 Councillor Alex Wilson
 Yes - Ward 14 Councillor Mike Spadafora
 Not Present - Ward 15 Councillor Ted McMeekin

FOR INFORMATION:

(a) APPROVAL OF AGENDA (Item 2)

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

6. DELEGATION REQUESTS

- 6.1 Lindsay Mordue respecting Downtown Traffic Conditions and Two Way Streets (for today's meeting)

(A. Wilson/Danko)

That the Agenda for the January 16, 2023 Public Works Committee meeting be approved, as amended.

Result: MOTION, CARRIED by a vote of 11 to 0, as follows:

Yes - Ward 1 Councillor Maureen Wilson
 Yes - Ward 2 Councillor Cameron Kroetsch
 Yes - Ward 3 Councillor Nrinder Nann
 Yes - Ward 5 Councillor Matt Francis
 Yes - Ward 6 Councillor Tom Jackson
 Yes - Ward 7 Councillor Esther Pauls
 Yes - Ward 8 Councillor J. P. Danko
 Yes - Ward 10 Councillor Jeff Beattie
 Yes - Ward 12 Councillor Craig Cassar
 Yes - Ward 13 Councillor Alex Wilson
 Yes - Ward 14 Councillor Mike Spadafora
 Not Present - Ward 15 Councillor Ted McMeekin

(b) DECLARATIONS OF INTEREST (Item 3)

Councillor J.P. Danko declared a non-disqualifying interest respecting Item 12.2 - Removal of Berms at Bernie Morelli Recreation Centre and Bernie Custis Secondary School, 1089 King Street East, Hamilton (Ward 3), as his wife is Chair of the Hamilton-Wentworth District School Board.

(c) APPROVAL OF MINUTES OF PREVIOUS MEETING (Item 4)**(i) November 28, 2022 (Item 4.1)****(Pauls/McMeekin)**

That the Minutes of the November 28, 2022 meeting of the Public Works Committee be approved, as presented.

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

Yes - Ward 1 Councillor Maureen Wilson
 Yes - Ward 2 Councillor Cameron Kroetsch
 Yes - Ward 3 Councillor Nrinder Nann

Yes - Ward 5 Councillor Matt Francis
 Yes - Ward 6 Councillor Tom Jackson
 Yes - Ward 7 Councillor Esther Pauls
 Yes - Ward 8 Councillor J. P. Danko
 Yes - Ward 10 Councillor Jeff Beattie
 Yes - Ward 12 Councillor Craig Cassar
 Yes - Ward 13 Councillor Alex Wilson
 Yes - Ward 14 Councillor Mike Spadafora
 Yes - Ward 15 Councillor Ted McMeekin

(d) DELEGATION REQUESTS (Item 6)

(Spadafora/A. Wilson)

That the following Delegation Request be approved for today's meeting:

- (i) Lindsay Mordue respecting Downtown Traffic Conditions and Two Way Streets (Item 6.1)

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

Yes - Ward 1 Councillor Maureen Wilson
 Yes - Ward 2 Councillor Cameron Kroetsch
 Yes - Ward 3 Councillor Nrinder Nann
 Yes - Ward 5 Councillor Matt Francis
 Yes - Ward 6 Councillor Tom Jackson
 Yes - Ward 7 Councillor Esther Pauls
 Yes - Ward 8 Councillor J. P. Danko
 Yes - Ward 10 Councillor Jeff Beattie
 Yes - Ward 12 Councillor Craig Cassar
 Yes - Ward 13 Councillor Alex Wilson
 Yes - Ward 14 Councillor Mike Spadafora
 Yes - Ward 15 Councillor Ted McMeekin

(e) DELEGATIONS (Item 7)

- (i) **Lindsay Mordue respecting Downtown Traffic Conditions and Two Way Streets (Item 7.1)**

Lindsay Mordue provided a verbal presentation expressing concerns respecting downtown traffic conditions and two way streets in Hamilton.

(Pauls/Beattie)

That the verbal presentation from Lindsay Mordue respecting Downtown Traffic Conditions and Two Way Streets, be received.

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

Yes - Ward 1 Councillor Maureen Wilson
 Yes - Ward 2 Councillor Cameron Kroetsch
 Yes - Ward 3 Councillor Nrinder Nann
 Yes - Ward 5 Councillor Matt Francis
 Yes - Ward 6 Councillor Tom Jackson
 Yes - Ward 7 Councillor Esther Pauls
 Yes - Ward 8 Councillor J. P. Danko
 Yes - Ward 10 Councillor Jeff Beattie
 Yes - Ward 12 Councillor Craig Cassar
 Yes - Ward 13 Councillor Alex Wilson
 Yes - Ward 14 Councillor Mike Spadafora
 Yes - Ward 15 Councillor Ted McMeekin

(f) DISCUSSION ITEMS (Item 11)

(i) 2023 Volunteer Committee Budget - Keep Hamilton Clean and Green Committee (PW23002) (City Wide) (Item 11.1)

(M. Wilson/Kroetsch)

That staff be directed to report back to the Public Works Committee respecting the annual expenses for litter collection outside of regularly scheduled Waste Management efforts, including the factors that inform the planning and scheduling of public litter collection in public spaces across the City of Hamilton, by the end of 2023.

Result: MOTION, CARRIED by a vote of 11 to 0, as follows:

Yes - Ward 1 Councillor Maureen Wilson
 Yes - Ward 2 Councillor Cameron Kroetsch
 Yes - Ward 3 Councillor Nrinder Nann
 Yes - Ward 5 Councillor Matt Francis
 Yes - Ward 6 Councillor Tom Jackson
 Yes - Ward 7 Councillor Esther Pauls
 Yes - Ward 8 Councillor J. P. Danko
 Yes - Ward 10 Councillor Jeff Beattie
 Yes - Ward 12 Councillor Craig Cassar
 Yes - Ward 13 Councillor Alex Wilson
 Yes - Ward 14 Councillor Mike Spadafora
 Not Present - Ward 15 Councillor Ted McMeekin

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

(g) GENERAL INFORMATION / OTHER BUSINESS (Item 14)**(i) Amendments to the Outstanding Business List (Item 14.1)****(Spadafora/A. Wilson)**

That the following amendments to the Public Works Committee's Outstanding Business List, be approved.

(1) Items Considered Complete and Needing to be Removed (Item 14.1(a))

- (i) Truck Route By-law Amendment (Item 14.1(a)(a))**
Addressed as Item 11.3 on today's agenda - Report PW23005 (City Wide)
Item on OBL: ACI

(2) Items Requiring a New Due Date (Item 14.1(b))

- (i) Traffic Calming Management Policy (Item 14.1(b)(a))**
Item on OBL: NA
Current Due Date: December 6, 2021
Proposed New Due Date: Q3 2023
- (ii) Winterizing Public Washrooms (Item 14.1(b)(b))**
Item on OBL: ABV
Current Due Date: Q2 2023
Proposed New Due Date: July 12, 2023
- (iii) Accessible Transportation Services Performance Report (Item 14.1(b)(c))**
Item on OBL: ACU
Addressed as Item 9.1 on today's agenda -Report PW22079(a) (City Wide)
Proposed New Due Date: Q2 2023
- (iv) Redevelopment / Reuse of the former King George School Site, at 77 Gage Avenue North (Item 14.1(b)(d))**
Item on OBL: V
Current Due Date: March 1, 2023
Proposed New Due Date: June 14, 2023

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

Yes - Ward 1 Councillor Maureen Wilson
Yes - Ward 2 Councillor Cameron Kroetsch
Yes - Ward 3 Councillor Nrinder Nann

Yes - Ward 5 Councillor Matt Francis
Yes - Ward 6 Councillor Tom Jackson
Yes - Ward 7 Councillor Esther Pauls
Yes - Ward 8 Councillor J. P. Danko
Yes - Ward 10 Councillor Jeff Beattie
Yes - Ward 12 Councillor Craig Cassar
Yes - Ward 13 Councillor Alex Wilson
Yes - Ward 14 Councillor Mike Spadafora
Yes - Ward 15 Councillor Ted McMeekin

(g) ADJOURNMENT (Item 16)

(Spadafora/A. Wilson)

That there being no further business, the meeting adjourned at 2:53 p.m.

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

Yes - Ward 1 Councillor Maureen Wilson
Yes - Ward 2 Councillor Cameron Kroetsch
Yes - Ward 3 Councillor Nrinder Nann
Yes - Ward 5 Councillor Matt Francis
Yes - Ward 6 Councillor Tom Jackson
Yes - Ward 7 Councillor Esther Pauls
Yes - Ward 8 Councillor J. P. Danko
Yes - Ward 10 Councillor Jeff Beattie
Yes - Ward 12 Councillor Craig Cassar
Yes - Ward 13 Councillor Alex Wilson
Yes - Ward 14 Councillor Mike Spadafora
Yes - Ward 15 Councillor Ted McMeekin

Respectfully submitted,

Councillor Nann, Chair,
Public Works Committee

Carrie McIntosh
Legislative Coordinator
Office of the City Clerk

6.1

Request to Speak to Committee of Council

Wed, 02/01/2023 - 16:41

==Committee Requested==

Committee: Public Works Committee

Will you be delegating in person or virtually? Virtually

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

==Requestor Information==

Name of Individual: Angela Zheng

Name of Organization:

Contact Number: [REDACTED]

Email Address: [REDACTED]

Mailing Address:

[REDACTED]

Reason(s) for delegation request: Ask for funding for a staircase to facilitate access to a commuter trail connecting University Gardens and Westdale.

Will you be requesting funds from the City? Yes

Will you be submitting a formal presentation? Yes

6.2

Request to Speak to Committee of Council

Submitted on Fri, 02/03/2023 - 11:23

==Committee Requested==

Committee: Public Works Committee

Will you be delegating in person or virtually? In person

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

==Requestor Information==

Name of Individual: Brenda Duke

Name of Organization: GALA Community Planning Team

Contact Number: [REDACTED]

Email Address: [REDACTED]

Mailing Address:

[REDACTED]

Reason(s) for delegation request: I would like to address the committee regarding support for maintenance of gardens within the public parks.

Will you be requesting funds from the City? Yes

Will you be submitting a formal presentation? Yes

6.3

Request to Speak to Committee of Council

Submitted on Tue, 02/07/2023 - 09:13

==Committee Requested==

Committee: Public Works Committee

Will you be delegating in person or virtually? In person

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

==Requestor Information==

Name of Individual: Brenda Duke

Name of Organization: GALA Community Planning Team

Contact Number: [REDACTED]

Email Address: [REDACTED]

Mailing Address:

[REDACTED]


Reason(s) for delegation request: I would like to discuss waste pickup procedures and support for community cleanups.

Will you be requesting funds from the City? No

Will you be submitting a formal presentation? No



CITY OF HAMILTON
PUBLIC WORKS DEPARTMENT
Hamilton Water Division

TO:	Chair and Members Public Works Committee
COMMITTEE DATE:	February 13, 2023
SUBJECT/REPORT NO:	Burlington Street Sewage Spill Update (PW22088(a)) (City Wide)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Nick Winters (905) 546-2424 Ext. 1474
SUBMITTED BY:	Nick Winters Director, Hamilton Water Public Works Department
SIGNATURE:	

RECOMMENDATIONS

- (a) That the General Manager, Public Works be directed to notify the Mayor and City Council members via e-mailed Communication Update with the submission of all responses to the Provincial Officer's Order Number 1-142403769 (the Order) issued by the Ministry of the Environment, Conservation and Parks (MECP), at the same time that the responses to the Order are submitted to the MECP;
- (b) That the General Manager, Public Works be directed to publish all responses to the Provincial Officer's Order Number 1-142403769 (the Order) issued by the Ministry of the Environment, Conservation and Parks to the City of Hamilton website for public availability;
- (c) That the General Manager, Public Works be directed to prepare a report to the Public Works Committee, following the submission of all responses to the Provincial Officer's Order Number 1-142403769 (the Order) issued by the Ministry of the Environment, Conservation and Parks, that identifies all program changes resulting from the Order including financial and staffing requirements;
- (d) That Appendix "F" attached to Report PW22088(s) respecting Hamilton Water Sewage Spills Communications Guideline be approved for implementation; and

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: Burlington Street Sewage Spill Update (PW22088(a)) (City Wide)
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- (e) That the General Manager, Public Works be directed to provide an annual update report to the Public Works Committee regarding sewage spills from City of Hamilton sewer infrastructure;

EXECUTIVE SUMMARY

Report PW22088(a) provides an update on the Burlington Street Sewage Spill (PW22088), including:

1. Discussion of the Provincial Officer's Order Number 1-142403769 (the Order) issued by the Ministry of the Environment, Conservation and Parks (MECP) on January 18, 2023, included as Appendix "A" to Report PW22088(a), and the resulting workplan that has been implemented by the Hamilton Water Division, included as Appendix "B" to Report PW22088(a);
2. Details about the risk-based inspection program pilot for the investigation of cross connected sewers (the Pilot) that has been implemented by the Hamilton Water Division to look for other instances of cross connected sewers, included as Appendix "C" to Report PW22088(a); and,
3. Details of the Rutherford Avenue sewage spill included as Appendix "D" to Report PW22088(a), and the Kinrade Avenue sewage spill included as Appendix "E" to Report PW22088(a), that were discovered as a result of the Pilot.

Report PW22088(a) also recommends the implementation of a communications guideline for sewage spills resulting from City infrastructure (the Communications Guideline). The Communications Guideline, included as Appendix "F" to Report PW22088(a), identifies communication processes for different situations where previously unknown sewage discharges to the natural environment are identified by City staff.

Alternatives for Consideration – See Page 5

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: There are no financial implications resulting from the recommendations in report PW22088(a). Implementation of the Hamilton Water Sewage Spills Communications Guideline will use existing staff resources.

However, there are financial implications resulting from the response to the three (3) spills discussed in report PW22088(a). The report recommendations also identify that a future report be prepared to the

SUBJECT: Burlington Street Sewage Spill Update (PW22088(a)) (City Wide)
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Public Works Committee, following the submission of all responses to the Provincial Officer's Order Number 1-142403769 (the Order) issued by the Ministry of the Environment, Conservation and Parks, that identifies all program changes resulting from the Order including financial and staffing requirements.

Staffing: There are no staffing implications resulting from the recommendations in Report PW22088(a).

However, the recommendations identify that a future report be prepared to the Public Works Committee, following the submission of all responses to the Provincial Officer's Order Number 1-142403769 (the Order) issued by the Ministry of the Environment, Conservation and Parks, that identifies all program changes resulting from the Order including financial and staffing requirements.

Legal: There are no legal implications resulting from the recommendations in Report PW22088(a).

HISTORICAL BACKGROUND

On Tuesday, November 22, 2022 Hamilton Water staff identified an improper connection between a combined sewer and a storm sewer in the vicinity of Wentworth Street North and Burlington Street East. This improper sewage connection led to a sewage spill into a large storm sewer that was discharging into Hamilton Harbour. The volume of the sewage spill was estimated to be approximately 337 million litres over 26 years. On November 23, 2022, the improper connection was reconfigured and there is no possibility for the spill to reoccur in the future. Report PW22088 which was presented at the November 28, 2022, Public Works Committee meeting provided the details that were available regarding the sewage spill at that time.

As a result of the discovery of this sewage spill, Hamilton Water implemented a Risk-Based Inspection Program Pilot for the Investigation of Cross Connected Sewers (the Pilot), the details of which are included as Appendix "C" to Report PW22088(a). The Pilot was initiated on December 3, 2022, and as of January 30, 2023, 407 maintenance access chambers have been inspected, resulting in the discovery of an additional two (2) sewage spills (Rutherford Avenue and Kinrade Avenue) and seven (7) previously uncharted critical combined sewer regulators. At its current pace, the remaining Pilot inspections are expected to be completed by the end April 2023, for a total of 631 inspections.

The Rutherford Avenue spill was discovered on January 9, 2023. The spill resulted from an improper connection between a combined sewer and a storm sewer on Rutherford Ave at Myrtle Ave, and the volume of the sewage spill was estimated to be

SUBJECT: Burlington Street Sewage Spill Update (PW22088(a)) (City Wide)
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approximately 59 million litres over 26 years. On January 11, 2023 the improper connection was reconfigured and there is no possibility for the spill to reoccur in the future. The details of this spill have been included as Appendix “D” to Report PW22088(a).

The Kinrade Avenue spill was discovered on January 18, 2023. The spill resulted from a single residential sanitary sewer lateral that was connected to the proper sewer (a combined sewer), but a design issue at this location may have allowed some of the sanitary sewage from this home to discharge to the overflow pipe leading to the storm sewer during dry weather. The volume of the sewage spill was estimated to be approximately 0.47 million litres over 41 years. Realignment of the sanitary sewer lateral into a new location within the combined sewer was completed on January 19, 2023 and there is no possibility for the spill to reoccur in the future. The details of this spill have been included as Appendix “E” to Report PW22088(a).

On January 18, 2023, the City of Hamilton received Provincial Officer’s Order Number 1-142403769(the Order) issued by the Ministry of the Environment, Conservation and Parks (MECP). The Order was issued as a result of the Burlington Street and Rutherford Avenue sewage spills and requires the City to complete several actions focused on assessing and enhancing its programs related to the investigation and identification of cross connected sewers. The Order has been included as Appendix “A” to Report PW22088(a), and a summary of the actions that are being taken by the City to comply with the Order has been included as Appendix “B” to Report PW22088(a). The City’s response to Order Items 1 and 2 was submitted to the MECP on Friday, February 3, 2023 and a copy of the letter to the MECP has been included as Appendix “G” to Report PW22088(a).

Unfortunately, as the City continues to investigate its sewer systems looking for cross connected sewers, it is expected that more will be found. As a result, Hamilton Water has developed a Sewage Spills Communications Guideline (the Guideline) to be followed whenever sewage spills from City of Hamilton sewer infrastructure to the natural environment are discovered. The Guideline has been included as Appendix “F” to Report PW22088(a). The purpose of the Guideline is to ensure transparency regarding sewage spills from the City’s sewer infrastructure and it is a complement to the City’s protocol for communicating combined sewer overflows and wastewater treatment plant bypasses. The Guideline provides for different communication channels based on the significance of any sewage spills that are discovered.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

Spills reporting is a requirement of the Provincial Environmental Protection Act, R.S.O. 1990, c. E.19, Part X.

SUBJECT: Burlington Street Sewage Spill Update (PW22088(a)) (City Wide)
- Page 5 of 6

Discharges from Sewage Systems is regulated by the Ontario Water Resources Act, R.S.O. 1990, c. O.40.

Combined Sewer Systems must be operated in accordance with Ontario Procedure F-5-5 which is a supporting document for Guideline F-5 "Levels of Treatment for Municipal and Private Sewage Treatment Works Discharging to Surface Waters".

The recommendations in Report PW22088(a) support the requirements of the legislated requirements related to spills reporting and operation of sewage/sewer systems.

RELEVANT CONSULTATION

The Corporate Communications and Strategic Initiatives Division was consulted and supported the development of the Hamilton Water Sewage Spills Communications Guideline.

ANALYSIS AND RATIONALE FOR RECOMMENDATIONS

The recommendations in report PW22088(a) provide a transparent process for communications regarding sewage spills from the City's sewer infrastructure and it is a complement to the City's protocol for communicating combined sewer overflows and wastewater treatment plant bypasses.

The recommendations also provide for an annual report to be prepared for the Public Works Committee regarding sewage spills so that City Council is updated regarding the successes and any challenges with the City's investigations looking for cross connected sewers and has an opportunity to address questions to staff.

Finally, the recommendations provide a transparent process regarding Provincial Officer's Order Number 1-142403769(the Order) and the actions that the City undertakes resulting from the Order.

ALTERNATIVES FOR CONSIDERATION

An alternative to recommendation (d) in Report PW22088(a) would be to continue to update Council, Senior Leadership, the community, media, First Nations and other stakeholders regarding sewage spills using existing channels (emails, media releases, and committee reports). However, recommendation (d) supports the implementation of a more efficient communications process that also creates a historical record for sewage spill events that is maintained and accessible on the City of Hamilton website.

SUBJECT: Burlington Street Sewage Spill Update (PW22088(a)) (City Wide)
- Page 6 of 6

ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN

Clean and Green

Hamilton is environmentally sustainable with a healthy balance of natural and urban spaces.

Built Environment and Infrastructure

Hamilton is supported by state-of-the-art infrastructure, transportation options, buildings and public spaces that create a dynamic City.

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 PW22088(a) – Ministry of the Environment, Conservation and Parks Provincial Officer’s Order Number 1-142403769

Appendix “B” to Report PW22088(a) – City Workplan Resulting from Provincial Officer’s Order Number 1-142403769

Appendix “C” to Report PW22088(a) – Hamilton Water Risk-Based Inspection Program Pilot for the Investigation of Cross Connected Sewers

Appendix “D” to Report PW22088(a) – Rutherford Avenue Sewage Spill Details

Appendix “E” to Report PW22088(a) – Kinrade Avenue Sewage Spill Details

Appendix “F” to Report PW22088(a) – Hamilton Water Sewage Spills Communications Guideline

Appendix “G” to Report PW22088(a) – February 3, 2023, Letter from the City of Hamilton to the Ministry of the Environment Conservation and Parks with Response to Order Items 1 and 2

Provincial Officer's Order

Order Number

1-142403769

Order Issued To

THE CORPORATION OF THE CITY OF HAMILTON
71 MAIN ST W , HAMILTON, ON, L8P 4Y5

Site

Woodward Ave Wastewater Treatment Plant
700 WOODWARD AVE, HAMILTON, ON, L8H 6P4

Refer to the Definitions section in the Provincial Officer's Report, Part B of this Order, for the meaning of all the capitalized terms that are used in this Order.

PART A - WORK ORDERED

Pursuant to my authority under **EPA | 157.1, OWRA | 16.1, OWRA | 16.2**, I order you to do the following:

Item No. 1 Compliance Due Date: 02/06/2023

Retain the services of a Qualified Person(s) that has the experience and qualifications with the following order items.

Item No. 2 Compliance Due Date: 02/06/2023

Submit to the undersigned Provincial Officer written confirmation that the Qualified Person(s) has been retained to carry out the work specified in this Order, that a copy of the Order has been given to the Qualified Person(s) and that the Qualified Person(s) has the experience and qualifications to carry out the work.

Item No. 3 Compliance Due Date: 03/17/2023

Develop a sampling program within the sewage works of the City of Hamilton that discharges to the Natural Environment. The program shall include at a minimum but not limited to:

i. Identifying Spill(s) and unauthorized discharges of untreated sewage within the City of Hamilton storm and combined sewer system that discharges or potentially discharges to the Natural Environment.

ii. In-pipe representative sampling of storm and combined sewers that discharge to the natural environment during Dry Weather Flow(s), where

upstream, downstream samples cannot be collected at the receiving water body.

iii. Trigger conditions, parameters, and/or limits to initiate further investigation to identify Spill(s) and unauthorized discharges of untreated Sewage.

iv. Investigation procedures for identifying Spill(s) and unauthorized discharges of untreated Sewage.

v. Timelines to implement the sampling program.

Item No. 4 Compliance Due Date: 03/17/2023

A copy of the sampling program referred to in Item No. 3 shall be submitted to the undersigning Provincial Officer for acceptance by the Ministry.

Item No. 5 Compliance Due Date: 05/12/2023

Identify recommendations for enhancements to the City's sewer inspection programs to better identify identifying Spill(s) and unauthorized discharges of untreated sewage within the City of Hamilton sewer system. These recommendations shall include at a minimum but not limited to:

I. An analysis of the feasibility of conducting a detailed in-pipe inspection of the City of Hamilton's sewer system.

II. An analysis of the feasibility of conducting risk-based inspections of the City of Hamilton's sewer system.

III. The Terms of Reference for an assignment to complete a gap-analysis review of current programs, procedures, and measures to inspect, monitor and identify Spill(s) and unauthorized discharges from the City of Hamilton's sewer system.

IV. A review of additional physical and analytical inspection programs to identify Spill(s) and Spill(s) and unauthorized discharges from City of Hamilton sewage system.

V. Procedures for updating City of Hamilton's current digital mapping system when discrepancies are determined.

Item No. 6 Compliance Due Date: 05/12/2023

A copy of the recommendations referred to in Item No. 5 shall be submitted to the undersigning Provincial Officer for acceptance by the Ministry.

Item No. 7 Compliance Due Date: 06/30/2023

Document the City's programs and processes for identifying Spill(s) and unauthorized discharges of untreated sewage within the City of Hamilton sewer system, including the program enhancements identified on the findings of order Items No. 3 and No. 5 in a suitable operating procedure, guidance document or report.

Item No. 8

A copy of the standard operating procedure, guidance document or report referred to in Item No. 7 shall be submitted to the undersigning Provincial Officer within eight (8) weeks of acceptance of order Items No. 3-6, or such other date approved by the undersigning Provincial Officer

PART B - PROVINCIAL OFFICER'S REPORT

This Order is being issued for the reasons set out below.

Definitions

For the purposes of this Order, the following capitalized terms shall have the meanings set out below:

"Dry Weather Flow(s)" means sewage flow resulting from both, Sanitary wastewater (combined input of industrial, domestic and commercial flows); and Infiltration and inflows from foundation drains or other drains occurring during periods with an absence of rainfall or snowmelt.

"EPA" means the Environmental Protection Act, R.S.O. 1990, c. E.19.

"Flow Regulator" means a any structure that in dry weather permits the passage of all flows to treatment and in wet weather permits discharge to an outfall or relief sewer of all flows in excess of some specific flowrate.

"Ministry" or "MECP" means the Ontario Ministry of the Environment, Conservation and Parks.

"Natural Environment" has the same meaning as defined in section 1 of the EPA.

"OWRA" means the Ontario Water Resources Act, R.S.O. 1990, c. O.40.

"Provincial Officer" means the undersigned provincial officer or, if the undersigned is unable to act, any other provincial officer authorized to act pursuant to the EPA and OWRA.

"Qualified Person" means a person who has obtained the appropriate education, training and credentials and has demonstrated experience and expertise in the areas relating to the work required to be carried out in this Order.

"Sewage" has the same meaning as defined in section 1 of the OWRA.

"Sewage Works" has the same meaning as defined in section 1 of the OWRA.

"Spill" has the same meaning as defined in section 91 of the EPA.

"Waters" has the same meaning as defined in section 1 of the OWRA.

"Wet Weather Flows" Means the combined sewage flow resulting from, Sanitary wastewater; and Infiltration and inflows from foundation drains or other drains resulting from rainfall or snowmelt; and Stormwater runoff generated by either rainfall. or snowmelt that enters the combined sewer system.

Description of Person(s) Subject to the Order

The Corporation of the City of Hamilton, herein referred to as 'The City', is a single tier municipality located in Ontario. The geographic area is approximately 1,118 km² comprised of rural and urban land uses.

Description of the Site and/or System/Facility

The Corporation of the City of Hamilton, herein referred to as 'The City', owns and operates a Sewage Works, namely a wastewater collection system, comprised of combined, separated and partially separated sewer infrastructure. In addition to the wastewater collection system, The City also owns and operates a Sewage Works, for the conveyance, treatment and discharge of Sewage, namely storm water.

Reasons for the Order

On November 22, 2022 at approximately 12:14, the Ministry's Spills Action Centre (SAC) received a report from a City of Hamilton, Wastewater Collection Supervisor. The City indicated that while reviewing sewer videos on November 22, 2022 as part of a infrastructure renewal project in the area of Burlington Street East and Wentworth Street North there appeared to be a *Spill of combined sewage into the Hamilton Harbour via a storm sewer*. Later that day, The City confirmed to SAC that a Spill was observed. The City indicated emergency contractors have been dispatched to bypass the storm sewer in question by vacuuming to stop the spill. The City explained they will be coordinating repairs in the morning of November 23, 2022.

On November 22, 2022, at 17:00 I responded to the Spill. I arrived at the intersection of Burlington Street East and Wentworth Street North. I met with a City of Hamilton Wastewater Collection Operator. The operator stated he is a certified, level I wastewater collection operator. The City operator and I reviewed The City's digital sewer maps . The City operator explained that combined sewage flows north down Wentworth Street North in a combined sewer, which then discharges Sewage into a storm sewer. The storm sewer then transmits and discharges untreated Sewage from the combined sewer directly into the Hamilton Harbour. The City operator was unaware as to why it was configured that way. The City operator indicated his supervisor would have that information.

The City operator and I inspected the combined manhole. I observed a vacuum truck actively vacuuming the combined manhole to stop the spill of combined sewage. I observed sandbags in the manhole to further prevent combined sewage from entering the storm sewer. The City operator stated the vacuum truck has been on-site since approximately 16:00. The City operator explained that we would be unable to view where the combined sewer discharged into the storm sewer due to the vacuum truck being parked over the manhole.

I inspected the outfall location of the impacted storm sewer for impacts. The outfall is known in the collection system as the Wentworth combined sewer overflow Outfall. The outfall is located near Hamilton Port Authority pier 14 docking slip, at the North end of Wentworth Street North. I was unable to observe the outfall location, possibly due to the night conditions or that the outfall is submerged under water. I observed the receiving waterbody (Hamilton Harbour) by walking up and down the docking slip. I did not observe any signs of sewage or impacts to the receiving waterbody.

At 19:25 I collected five samples. I collected the samples from the storm sewer manhole located at Land Street and Wentworth Street North, down gradient of the combined sewer connection. I collected the samples using a stainless-steel bucket attached to a rope. I tripled rinsed the stainless-steel bucket and triple rinsed the PET500 bottles. I affixed legal seals to the sample bottles. The storm sewer had liquid material in the pipe. The storm sewer did not appear to be flowing at this location.

At 20:10 a City of Hamilton Wastewater Collection Supervisor arrived on site. The City Supervisor stated he is a class III wastewater collection operator. The City Supervisor and I reviewed past drawings. The City Supervisor explained a 1996 issued for tender drawing by Parker Consultant, where it shows the storm sewer in question discharges into a manhole. At this manhole there is a note indicating "break into top of existing box culvert with 15" storm sewer". The City Supervisor indicated that the storm sewers are misidentified, and they are in fact combined sewers. The City Supervisor explained where the "break into top of existing box culvert with 15" storm" is where combined sewage discharges downward into the top of a storm sewer. The City Supervisor stated prior to the City noticing this, combined sewage flowed from combined manhole to the storm manhole where, the top of the storm sewer was chipped out allowing combined sewage to enter the storm sewer. The City Supervisor showed me a CCTV video taken earlier that day by City Operators. In the video I saw where combined sewage entered the storm sewer. The City Supervisor confirmed the storm sewer flows to the North, down Wentworth Street North, ultimately discharging into the Hamilton Harbour at the Wentworth CSO Outfall.

At 21:30 I collected five samples. I collected the samples from the storm sewer manhole down gradient of the combined sewer connection, at the intersection of Burlington Street East and Wentworth Street North. I collected the samples using a stainless-steel bucket attached to a rope. I tripled rinsed the stainless-steel bucket and triple rinsed the PET500 bottles. I affixed legal seals to the sample bottles. The storm sewer did not appear to be flowing at this location.

At 21:50 I left the site. Later that evening I followed up with the City Supervisor requesting The City sample results, inspection videos, drawings, number of connections discharging to the storm sewer and a log of the volume collected by the vacuum truck that was discharged to the sanitary sewer as discussed with City staff earlier that day.

On November 23, 2022, repairs were conducted and completed to the storm water sewer, such that no untreated Sewage from the combined sewer would enter the storm sewer and discharge to the Hamilton Harbour. The combined sewer was modified to discharge into a nearby sanitary sewer.

On November 24, 2022, I submitted the samples collected on November 22, 2022 to the MECP Laboratory for analysis.

On December 1, 2022, at 10:00 I had a meeting with City of Hamilton representatives, Director of Hamilton Water/Wastewater Operations, Manager of Compliance and Regulations, Manager of Wastewater Collection, and Manager of Infrastructure Renewal to follow up with the Spill. During the meeting the City representatives explained past drawings of the sewer infrastructure in the area of the spill. City of Hamilton representatives indicated that during a construction

project tender in 1996 drawings were mislabeled as storm sewers when they were combined sewers, conveying combined Sewage. The City indicated that this project would have been initiated following the drawings, likely around 1996-1997. The City confirmed that combined Sewage would have been discharging into the storm sewer since approximately 1996-1997. The City indicated this Spill was identified during a infrastructure renewal project, where City staff observed an anomaly in the system. The City indicated the infrastructure renewal project was conducted to determine if replacement is required. The City indicated CCTV inspections were conducted by third party contractors in the area of the spill in 2009 and 2013. The City indicated, City staff do not review these inspections unless there is an identified need or prompt from the contractor. The City indicated these CCTV inspections focus on assets management, not identifying spills. The City indicated there are no proactive programs to assess unauthorized connections in the combined sewer sections of the collection system. The City indicated that only reactive work is conducted (ex. sewer back-up). The City indicated that the cross-connection program to identify where sewage is being directed to storm sewers does not apply to combined sewers. The City indicated other techniques such as smoke or dye testing is not proactively conducted in combined sewers. The City explained their surface water monitoring program implemented in 2021 to identify issues within their sewer system. The City indicated they have approximately 14 months of sampling. The City indicated the sampling in the area of the Spill in is in the Hamilton Harbour, not directly in the boat slip. I explained that I do not believe that sampling in the Hamilton Harbour is representative of what is being discharged from The City sewer infrastructure due to environmental conditions found in the Hamilton Harbour, and other industrial discharges to the Hamilton Harbour. I indicated that trigger conditions need to be implemented to determine further investigations instead of waiting to review trends in the data. During the meeting I requested several documents discussed during the meeting. The City indicated they would provide that information as soon as possible via email.

December 9, 2022, I had a meeting with MECP staff and City of Hamilton representatives, Director of Hamilton Water, Director of Hamilton Water/Wastewater Operations, Manager of Compliance and Regulations, Manager of Wastewater Collection, Manager of Infrastructure Renewal, Sr. Project Manager, Infrastructure Renewals and Senior Regulatory Coordinator, Compliance and Regulations. The City indicated they cannot be assured there are not more unauthorized connections similar to the one found at Burlington Street East and Wentworth Street North. The City also noted they observed flow regulators used to trigger overflows, that they were unaware of until the November 22, 2022 Spill was discovered. They are reviewing the accuracy of this flow regulator inventory. The City indicated they are currently reviewing and conducting field inspections of high-risk manholes with similar infrastructure configurations of where the event occurred. This is focused on the North end of Hamilton, where this type of infrastructure predominantly exists within The City. The City also discussed proposed potential new programs and reviewing their inspection programs and surface water monitoring program to identify unapproved discharges of Sewage from City of Hamilton's Sewage Works.

After reviewing the information, I collected during my inspection, such as, drawings, sewer inspection videos, sample results, along with my on-site observations, I confirmed that untreated combined Sewage was discharging into Hamilton Harbour via a City of Hamilton storm sewer, which was not authorized by the MECP or approved under the OWRA. The City estimated that 337,000,000 litres of combined Sewage from 50 mixed use service connections

was discharged into the Hamilton Harbour over 26 years due to this spill. The current City reactive inspection programs were unable to detect this Spill for the duration of the Spill, and it is my opinion the reactive inspection programs would not have identified this Spill. It is my opinion that the City of Hamilton does not have adequate programs to inspect, monitor and identify unauthorized connections causing Spills from City of Hamilton's Sewage Works infrastructure. With the absence of adequate programs, it is in my opinion that additional Spills, similar to this event could be currently occurring, and thus result in the unauthorized discharge of sewage from the works into the Natural Environment, including Waters such as the Hamilton Harbour.

Furthermore, On January 9, 2023, Ministry's Spills Action Centre (SAC) received a report from The City, Wastewater Collection Supervisor that another sewage Spill was discovered during a pilot proactive inspection program implemented as an outcome of the November 22, 2022, sewage Spill. The City determined a combined sewer was directly connected, and transmitted sewage to a storm sewer. Through this connection, untreated sewage from 11 residential homes was transmitted to a storm sewer that then discharges to the Hamilton Harbour from the Wentworth combined sewer overflow outfall.

On January 10, 2023, I responded to the sewage Spill. I collected samples and information regarding the Spill. It is my preliminary findings that this spill is similar to the November 22, 2022, where unauthorized connections were made from a combined sewer into the storm sewer. The storm sewer conveyed Sewage to the Hamilton Harbour. This inspection is currently on-going, and I am awaiting further information from the City of Hamilton and sample results from the MECP Laboratory.

During my January 10, 2023, inspection it was also communicated by The City, Wastewater Collection Supervisor that several flow regulators unknown to the City of Hamilton have been identified during the pilot proactive inspection program implemented as an outcome of the November 22, 2022, sewage spill.

Under certain emergency conditions, Sewage Works may be authorized to discharge untreated Sewage to the Natural Environment with no to minimal treatment typically during Wet-Weather Flows. These authorized discharges are necessary to prevent storm water and wastewater from backing up and causing basement flooding, surface flooding, and potential damage to wastewater treatment plants. The two sewage Spills discovered by the City, are not authorized as the Spills would have been discharging to the Natural Environment during Dry Weather Flows.

I reasonably believe the requirements specified in this Order are in the public's interest as untreated Sewage often contains high levels of floatables, pathogenic microorganisms, suspended solids, oxygen-demanding organic compounds, nutrients, oil and grease, toxic contaminants and other pollutants. Untreated sewage discharged to the Natural Environment represent a potential health hazard and can have adverse effects on aquatic life, recreational uses and water supplies.

Authority to Issue the Order

Ministry of the Environment,
Conservation and Parks

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



I am issuing this Order under my authority as a Provincial Officer under the following legislation, which also includes the authority to take intermediate action and/or procedural steps:

This Order is being issued pursuant to my authority under section 157.1 of the EPA and Section 16.1 and 16.2 of the OWRA.

I reasonably believe that the requirements specified in this Order are necessary or advisable so as to prevent or reduce the risk of a discharge of a contaminant, namely Sewage into the Natural Environment from the undertaking or the property.

AND

I further reasonably believe that the requirements in this Order are in the public interest in order to prevent a discharge of Sewage into Waters in the area of the City, such as but not limited to the Hamilton Harbour that may impair the quality of water.

AND

I further reasonably believe that the requirements in this Order are in the public interest.

Attachments

The attachments listed below, if any, form part of this Order:

Ministry of the Environment,
Conservation and Parks

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



ISSUING OFFICER

Name: Tyler Kelly

Job Title: Senior Environmental Officer

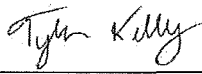
Badge Number: 1887

Officer Email: tyler.kelly@ontario.ca

Office Email: Environment.Hamilton@ontario.ca

Date: 2023/01/18

Signature:



REVIEW AND APPEAL INFORMATION

REQUEST FOR REVIEW

You may request that this Order be reviewed by the Director. Your request must be made in writing or orally with written confirmation. Your written request or written confirmation of your oral request must be received by the Director within 7 days after the date this Order was served on you and must be given to the Director as indicated in the Contact Information below.

In your written request or written confirmation, you must:

- specify the portions of this Order that you wish to be reviewed;
- include any submissions to be considered by the Director with respect to issuance of this Order to you or any other person and with respect to the contents of this Order;
- apply for a stay of this Order, if necessary; and
- provide an address for service by one of the following means, in person, by mail, by commercial courier, by fax, or by email.

In response to your request, the Director may confirm, alter/amend or revoke this Order. As an intermediate step, the Director may stay this Order by providing written notice to you that additional time is required to make a decision.

The Director will serve you with a copy (written notice) of the decision to revoke this Order or of an order, a Director's Order, to confirm or alter/amend this Order, together with reasons.

DEEMED CONFIRMATION OF THIS ORDER

If within 7 days of the Director receiving your request for review you do not receive written notice of a stay, or oral or written notice of the Director's decision on your request for review, this Order is deemed (considered) to have been confirmed by Order of the Director and deemed to have been served upon you at the expiry of those 7 days.

APPEAL INFORMATION (REQUIRE A HEARING)

A. If this Order is deemed confirmed as explained above, you may require a hearing by the Ontario Land Tribunal on the deemed confirmed Order within 15 days of the deemed service date:

- you must serve as indicated in the Contact Information below, written notice of your appeal on the Ontario Land Tribunal and the Director within those 15 days of the deemed service date;

- your notice must state the portions of the deemed confirmed Order for which a hearing is required and the grounds on which you intend to rely at the hearing;
- unless you have leave (permission) of the Ontario Land Tribunal, you are not entitled to appeal a portion of the deemed confirmed Order or to rely on grounds of appeal that are not stated in your notice requiring the hearing; and
- written notice requiring a hearing must be served on the Ontario Land Tribunal and the Director as indicated in the Contact Information below.

B. If this Order is confirmed or altered/amended by the Director by a written order served upon you (as opposed to the deemed confirmation noted above), such Director's Order will include the appropriate instructions for appealing that order to the Ontario Land Tribunal.

CONTACT INFORMATION

The contact information for the Director and the Ontario Land Tribunal is the following:

Registrar
Ontario Land Tribunal
655 BAY STREET, 15th FLOOR
TORONTO, ON M5G 1E5
OLT.Registrar@ontario.ca

and

Director (Provincial Officer's Orders)
Ministry of the Environment,
Conservation and Parks
Hamilton District Office
119 KING ST W, 9TH FLR
HAMILTON, ON L8P 4Y7
Office Email: Environment.
Hamilton@ontario.ca
Fax: (905) 521-7806

The contact information of the Ontario Land Tribunal and further information regarding its appeal requirements can be obtained directly from the Tribunal at:

Tel: (416) 212-6349, Toll Free: 1(866) 448-2248 or www.olt.gov.on.ca

SERVICE INFORMATION

Service of the documentation referred to above can be made personally, by mail, by fax (in the case of the Director only), by commercial courier or by email in accordance with the legislation under which this Order is made and any corresponding Service Regulation.

ADDITIONAL INFORMATION

Unless stayed by the Director or the Ontario Land Tribunal, this Order is effective from the date of service.

Failure to comply with a requirement of this Order constitutes an offence.

The requirements of this Order are minimum requirements only and do not mean that you are not required to comply with any other applicable legal requirements, including any:

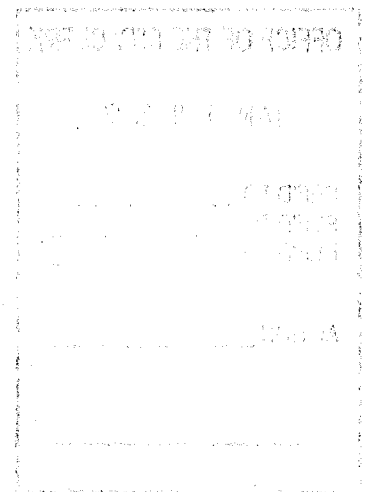
- statute, regulation, or by-law;
- federal, provincial, or municipal law; or
- applicable requirements that are not addressed in this Order.

The requirements of this Order are severable. If any requirement of this Order, or the application of any requirement to any circumstance, is held invalid, such finding does not invalidate or render unenforceable the requirement in other circumstances. It also does not invalidate or render unenforceable the other requirements of this Order.

Further orders may be issued in accordance with the legislation as circumstances require.

This Order is binding upon any successors or assignees of the persons to whom this Order is issued.

The procedures to request a review by the Director or require a hearing and other information provided above are intended as a guide. The legislation should be consulted for additional details and accurate reference. Further information can be obtained from e-Laws at www.ontario.ca/laws.



OFFICE OF THE CITY CLERK

JAN 18 2023

REF'D TO _____

REF'D TO _____

REF'D TO _____

ACTION _____

Ministry of the Environment, Conservation and Parks
Tyler Kelly, Senior Environmental Officer/Provincial Officer
Badge #1887 Tyler.Kelly@ontario.ca
Hamilton District Office - West Central Region
119 King Street West, 9th floor
Hamilton, ON L8P 4Y7
Tel 905-515-2152 Fax 905-521-7806
Provide feedback on my visit at 1-800-565-4923 (Individuals) or
1-888-745-8888 (Businesses) or ontario.ca/inspectionfeedback

Spills Action Centre: 1-800-268-6060
Pollution Hotline: 1-866-663-8477
ontario.ca/reportpollution



The City of Hamilton received order number 1-142403769 from the Ministry of the Environment Conservation and Parks on January 18, 2023. The following is a summary of Hamilton Water's progress and workplan to meet the Ministry's requirements.

Item No. 1 - Compliance Date February 6, 2023

Order Requirement	Workplan	Status
<i>"Retain the services of a Qualified Person that has the experience and qualifications with the following order items"</i>	Hamilton Water will engage internal staff and external consultants as Qualified Person(s) to assist in meeting the requirements of this order	<p>Joanne Di Caro (an independent consultant) is being retained in relation to Items No. 3 and No. 4.</p> <p>Stantec (an engineering consultant) has been retained in relation to items No. 5 and No. 6.</p> <p>Items No. 7 and No. 8 will be carried out by qualified Hamilton Water staff in accordance with the Document Control and Record Control procedures of the City of Hamilton's Wastewater Quality Management System (WWQMS). Staff will be trained on the new or revised procedures and processes.</p>

Item No. 2 - Compliance Date February 6, 2023

Order Requirement	Workplan	Status
<i>"Submit to the undersigned Provincial Officer written confirmation that the Qualified Person(s) has been retained to carry out the work specified in this Order, that a copy of the Order has been given to the Qualified Person(s) and that the Qualified Person(s) has the experience and qualifications to carry out the work"</i>	Hamilton Water will provide a letter to the Ministry on or before February 6, 2023 that meets the requirements of Items No 1. and No. 2	Complete – letter submitted to the Ministry on February 3, 2023

Item No. 3 - Compliance Date March 17, 2023

Order Requirement	Workplan	Status
<i>"Develop a sampling program within the sewage works of the City of Hamilton that discharges to the Natural Environment. The program shall include at a minimum but not limited to:</i>	A sampling program will be developed to enhance and supplement the current programs (surface water quality program, sewer lateral cross-connection program)	Initiated – An initial meeting has been held with Joanne Di Caro to discuss the scope of work and timelines. A proposal is expected to be received the week of February 6, 2023.
<i>I. Identifying Spill(s) and unauthorized discharges of</i>		

<p><i>untreated sewage within the City of Hamilton storm and combined sewer system that discharges or potentially discharges to the Natural Environment.</i></p> <p><i>II. In-pipe representative sampling of storm and combined sewers that discharge to the natural environment during Dry Weather Flow(s), where upstream, downstream samples cannot be collected at the receiving water body.</i></p> <p><i>III. Trigger conditions, parameters, and/or limits to initiate further investigation to identify Spill(s) and unauthorized discharges of untreated Sewage.</i></p> <p><i>IV. Investigation procedures for identifying Spill(s) and unauthorized discharges of untreated Sewage.</i></p> <p><i>V. Timelines to implement the sampling program."</i></p>		
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Item No. 4 - Compliance Date March 17, 2023

Order Requirement	Workplan	Status
<p><i>"A copy of the sampling program referred to in Item No. 3 shall be submitted to the undersigning Provincial Officer for acceptance by the Ministry."</i></p>	<p>Hamilton Water will provide a copy of the sampling program to the Ministry on or before February 17, 2023</p>	<p>Pending completion of Item No. 3</p>

Item No. 5 - Compliance Date May 12, 2023

Order Requirement	Workplan	Status
<p>Identify recommendations for enhancements to the City's sewer inspection programs to better identify identifying Spill(s) and unauthorized discharges of untreated sewage within the City of Hamilton sewer system. These recommendations shall include at a minimum but not limited to:</p> <p>I. An analysis of the feasibility of conducting a detailed in-pipe inspection of the City of Hamilton's sewer system.</p>	<p>Items I – IV are going to be addressed under Stantec's scope of work.</p> <p>Item V is going to be completed by Hamilton Water staff in accordance with the Document Control and Record Control procedures of the City of Hamilton Wastewater Quality Management System (WWQMS).</p>	<p>Initiated – Stantec has been retained and staff have submitted a scope of work and are in the process of reviewing Stantec's proposal.</p>

<p>II. An analysis of the feasibility of conducting risk-based inspections of the City of Hamilton's sewer system.</p> <p>III. The Terms of Reference for an assignment to complete a gap-analysis review of current programs, procedures, and measures to inspect, monitor and identify Spill(s) and unauthorized discharges from the City of Hamilton's sewer system.</p> <p>IV. A review of additional physical and analytical inspection programs to identify Spill(s) and Spill(s) and unauthorized discharges from City of Hamilton sewage system.</p> <p>V. Procedures for updating City of Hamilton's current digital mapping system when discrepancies are determined.</p>		
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Item No. 6 - Compliance Date May 12, 2023

Order Requirement	Workplan	Status
A copy of the recommendations referred to in Item No. 5 shall be submitted to the undersigning Provincial Officer for acceptance by the Ministry.	The recommendations resulting from Stantec's assignment as they relate to item No 5. will be provided to the Ministry on or before May 12, 2023	Pending completion of Item No. 5

Item No. 7 - Compliance Date June 30, 2023

Order Requirement	Workplan	Status
Document the City's programs and processes for identifying Spill(s) and unauthorized discharges of untreated sewage within the City of Hamilton sewer system, including the program enhancements identified on the findings of order Items No. 3 and No. 5 in a suitable operating procedure, guidance document or report.	Hamilton Water staff will be updating the City's programs and processes for identifying Spill(s) and unauthorized discharges of untreated sewage within the City of Hamilton sewer system, including the program enhancements identified in the Items above. Operating procedures, guidance documents or reports will be created, updated, distributed and retained in accordance with the Document Control and Record Control procedures of the City of Hamilton Wastewater Quality Management System (WWQMS). Staff will be trained	Not started

	on the new or revised procedures and processes	
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Item No. 8 - Compliance Date June 30, 2023

Order Requirement	Workplan	Status
A copy of the standard operating procedure, guidance document or report referred to in Item No. 7 shall be submitted to the undersigning Provincial Officer within eight (8) weeks of acceptance of order Items No. 3-6, or such other date approved by the undersigning Provincial Officer	A copy of the operating procedure, guidance document or report will be submitted to the Ministry on or before June 30, 2023	Not started

Hamilton Water Risk-Based Inspection Program Pilot for the Investigation of Cross Connected Sewers

As a result of the spill discovered by Hamilton Water staff on November 22, 2022, at the intersection of Wentworth Street North and Burlington Street East, Hamilton Water Wastewater Collection staff developed a pilot inspection program using a risk-based approach to proactively inspect and investigate the combined sewer system for cross connections or spills that may exist within the sewer system.

Background

Hamilton's sewer network, in particular the downtown core, is very complex and contains many intentional connections between combined sewers and storm sewers. These connections are designed to provide flood relief and prevent basement flooding during wet weather storm events. These connections which are referred to as 'regulators', are contained within maintenance chambers, and allow for combined sewers to overflow into the storm sewer system and ultimately out to the environment when the combined sewer system is overwhelmed during a wet weather event.

Currently there are 192 known critical regulators in the system that have the potential to allow sanitary wastewater to enter the storm sewer system and discharge directly to the environment during certain wet weather events. In 2019 and 2020 Hamilton Water staff physically inspected all the known critical regulators mapped on the City's Geographic Information System. These critical regulators are inspected twice a year to ensure they remain in good working order.

Risk Based Inspection Approach

There are 4 primary storm sewer outfalls identified in the downtown core which receive combined sewer overflows. These outfall locations are at the end of Wentworth Street North, Birch Avenue, Ottawa Street North, and Kenilworth Avenue North (see Figure 1). Because of the prevalence of combined sewer overflows to these outfalls, the focus of the pilot program has been to thoroughly investigate the combined and storm sewer maintenance chambers upstream of these 4 outfalls.

Initially 292 maintenance chambers within the combined sewer system were identified for inspection and to confirm whether Hamilton Water's electronic mapping system accurately reflects what is observed in the field (see Figure 2). These inspections are being conducted by Hamilton Water staff utilizing Zoom cameras and Go-Pro cameras. The 292 maintenance chambers include those chambers that have a close proximity to a storm sewer and are not regularly inspected under the critical regulator inspection program. The close proximity of a combined sewer and a storm sewer makes it more likely that an incorrect connection could have been made.

As these chambers are inspected, the discovery of any uncharted connections that do not exist in our electronic mapping system are immediately investigated. This may include closed circuit television camera inspections, cleaning, referencing historical drawings, and dye testing to confirm the purpose and function of the uncharted connection. If the investigation shows that an improper connection has been made,

Hamilton Water staff take the appropriate steps to report any spills as per Provincial Regulations and City policies and procedures, mitigate any active spills, and make the necessary corrections or repairs in consultation with the City's Engineering Services Division.

On January 9, 2023, Hamilton Water staff who were inspecting a combined sewer maintenance chamber at the intersection of Myrtle Street and Rutherford Avenue noticed an odour coming from a nearby storm sewer maintenance chamber. Upon investigation staff identified a combined sewer pipe that was discharging into the storm sewer maintenance chamber. As a result of this unexpected finding the pilot program was adjusted and an additional 339 storm sewer maintenance chambers were added to the inspection program.

The risk-based inspection approach has proven very effective. Since December 3, 2022, Hamilton Water staff have identified 7 previously uncharted critical regulators as well as 2 improper cross connections; both of which were corrected. As of January 30, 2023, staff have completed the following inspections:

- 191 out of 292 combined sewer maintenance chambers
- 216 out of 339 storm sewer maintenance chambers

The above note inspections have been completed by Hamilton Water staff on weekends utilizing overtime. At the current pace it is expected that the remaining inspections will be completed by the end April, weather permitting. The purpose of completing these inspections on the weekends has been to reduce impacts on traffic, ensure staff safety and limit the impact on Hamilton Water's levels of service for other sewer maintenance programs. This pilot program is also meant to inform what resources may be required to implement a long term or broader risk-based inspection program.

FIGURE 1

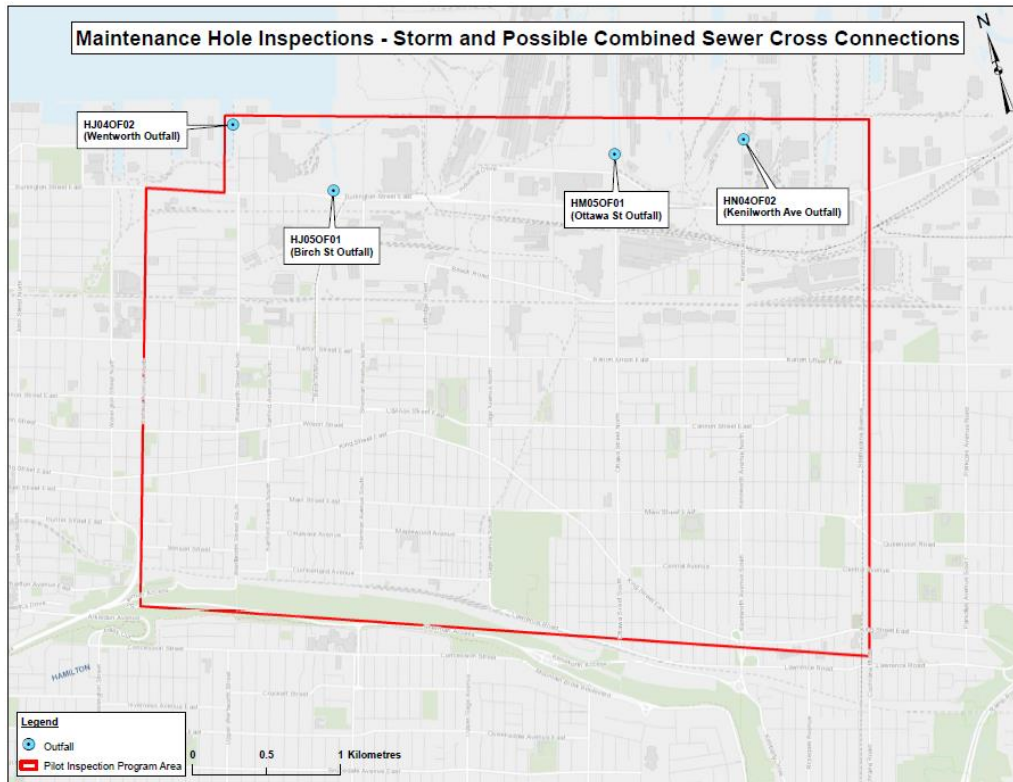
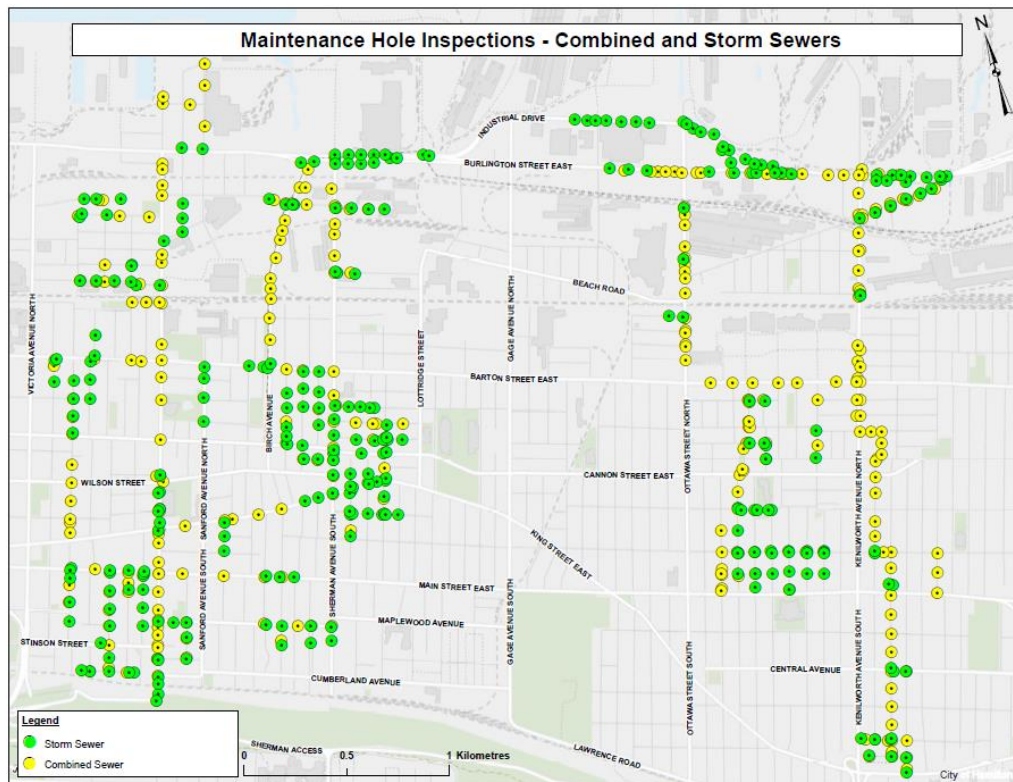


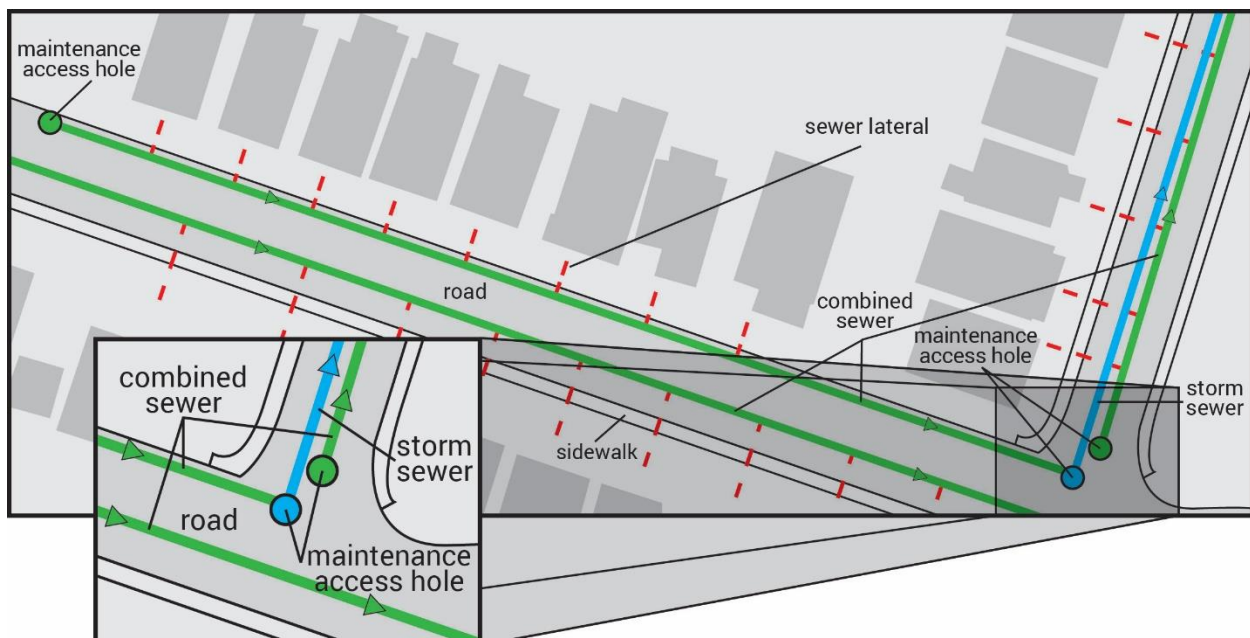
FIGURE 2



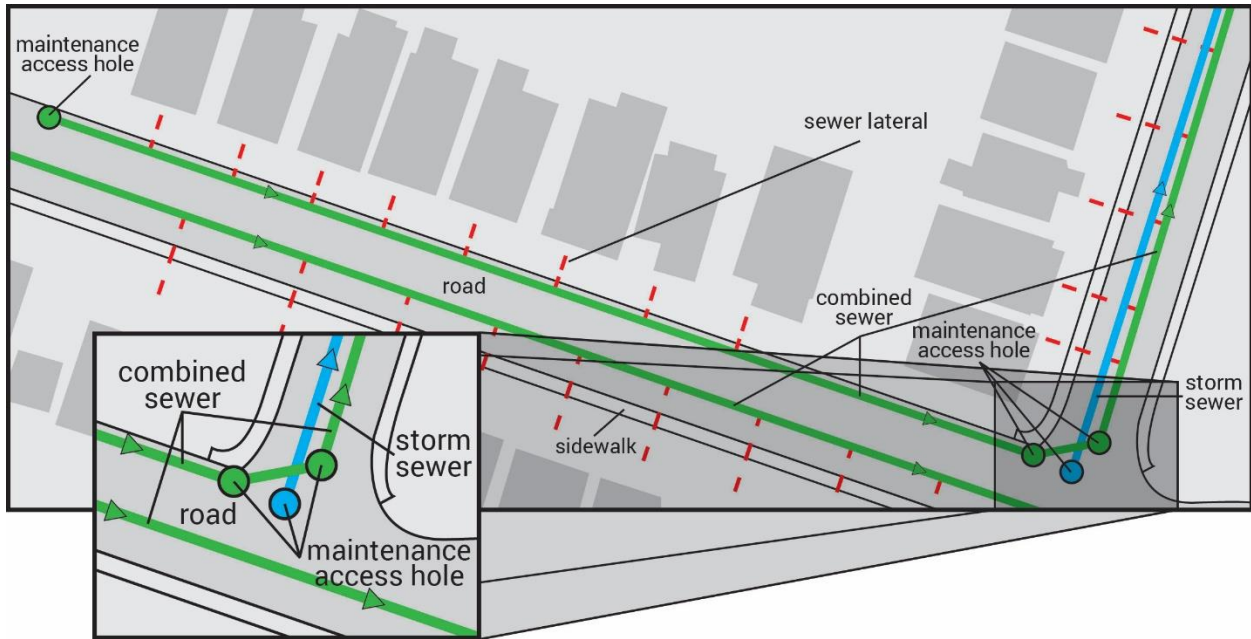
Rutherford Avenue Sewage Spill Details

Date of Discovery	January 9, 2023
Location	Rutherford Avenue and Myrtle Avenue
Background/Cause	The spill event was caused by an improper connection between a combined sewer and a storm sewer on Rutherford Ave at Myrtle Ave. The improper connection allowed combined sewage to enter the storm sewer that outlets directly into the Hamilton Harbour. Historical records indicate that the connection causing the spill likely occurred in the latter half of 1996 during a City of Hamilton capital construction project on Rutherford Avenue.
Immediate Action	Vacuum trucks captured and prevented sanitary sewage from continuing to enter the storm sewer.
Corrective Actions (see images below)	Reconfiguration of the sewer by installing an additional maintenance access hole and connecting the combined sewer on Rutherford Avenue directly to the combined sewer on Myrtle Avenue
Remediation Completion Date	January 11, 2023
Estimated Spill Volume	59 million litres
Estimated Duration of Spill	26 years
Cost of Repair	\$37,529 excluding staff time

Rutherford Ave - Before



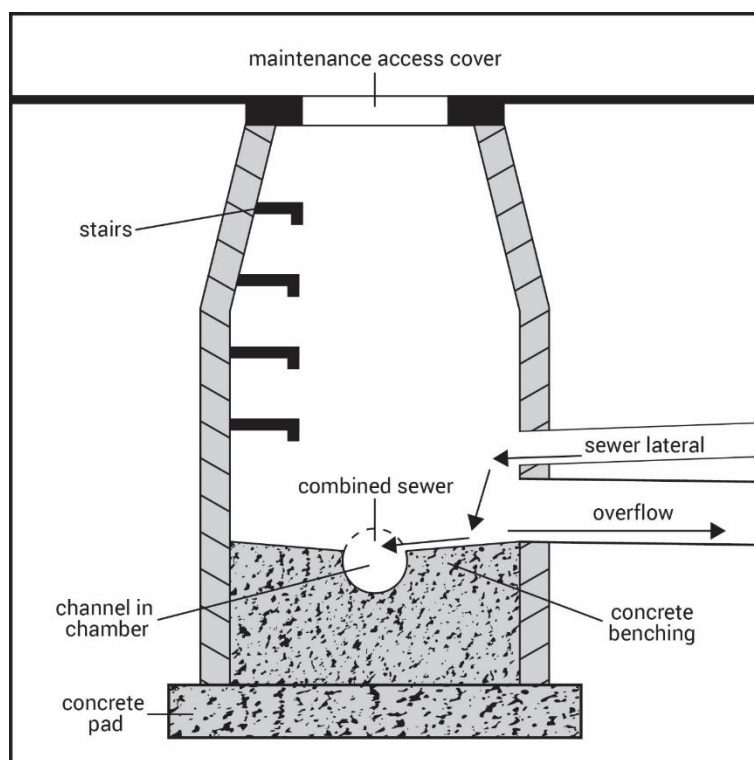
Rutherford Ave - After



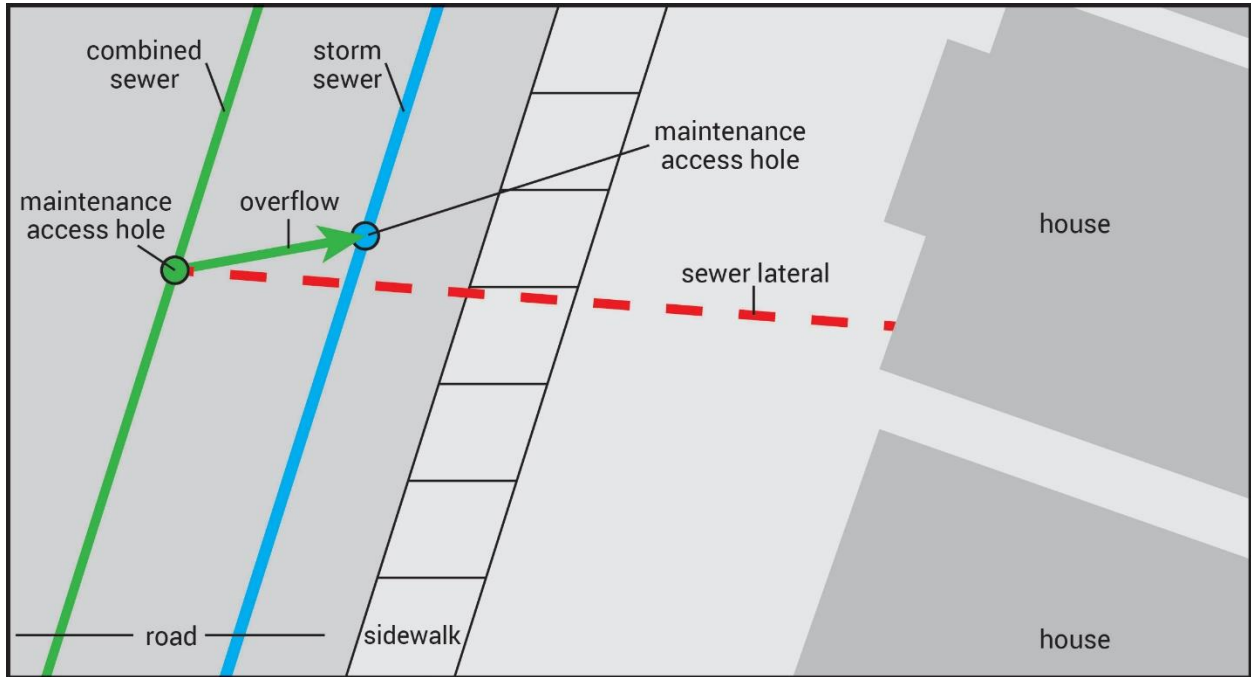
Kinrade Avenue Sewage Spill Details

Date of Discovery	January 18, 2023
Location	Kinrade Avenue
Background/Cause	An issue with a single residential sanitary sewer lateral connection was discovered on Kinrade Avenue. The sewer lateral was connected to the proper sewer (a combined sewer), however, a design issue at this location may have allowed some of the sanitary sewage from this home to discharge to the overflow pipe leading to the storm sewer during dry weather.
Immediate Action	Arranged for immediate repairs to be made.
Corrective Actions (see images below)	Realignment of the sanitary sewer lateral into a new location within the combined sewer.
Remediation Completion Date	January 19, 2023
Estimated Spill Volume	0.47 million litres. This is the total estimated volume of sanitary sewage produced by the single residence based on metered water consumption. It is important to note that it is likely that the majority of this did not enter the storm sewer but flowed into the combined sewer as intended.
Estimated Duration of Spill	41 years
Cost of Repair	\$7,308 excluding staff time

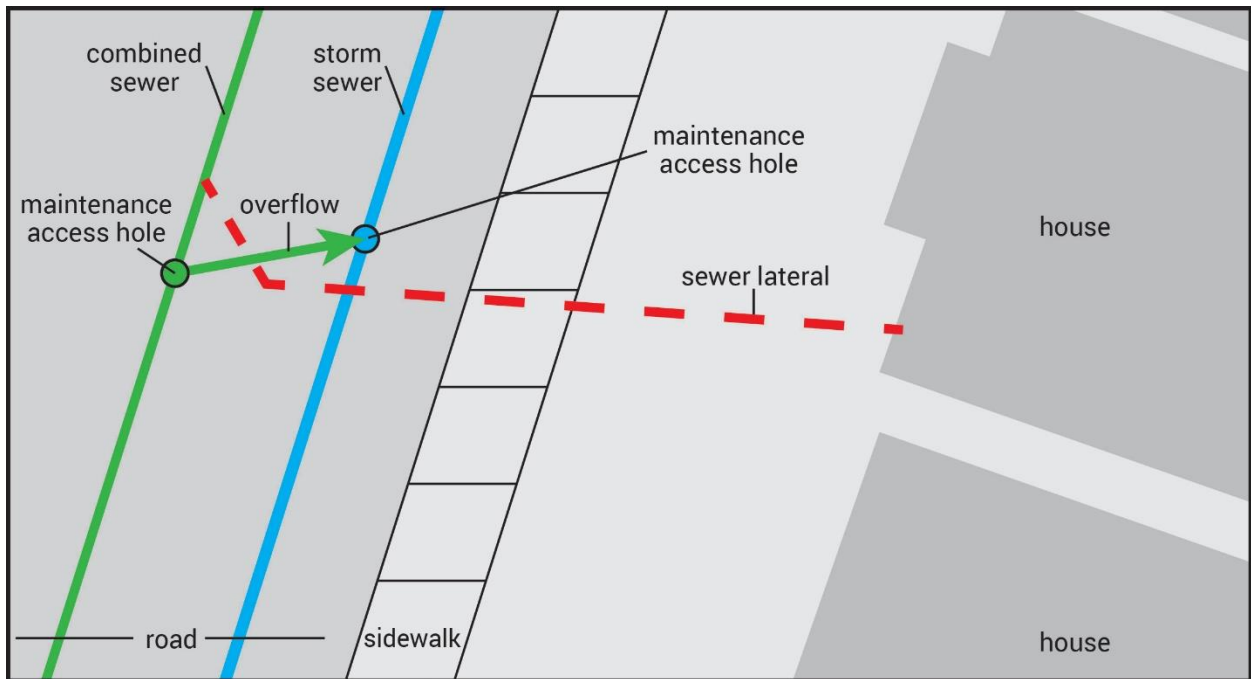
**Cross Section of Kinrade Avenue Sewage Spill Location
Configuration at time of Spill Discovery**



Kinrade Avenue - Before



Kinrade Avenue - After



Hamilton Water Sewage Spills Communications Guideline

Introduction

This Communications Guideline is being prepared in response to recent events where sewage spills from City of Hamilton sewer infrastructure were discharging to the natural environment and identifies communications processes under three different scenarios.

The Communications Guideline is a tool to assist in keeping Council, Senior Leadership, the community, media and other stakeholders informed in an open, transparent and consistent manner. It is important to note this is a working document to help guide staff in this process and to provide community and council with an expectation of what will happen during an event. This guideline focuses on sewage spills from City infrastructure that can potentially impact the natural environment.

Sewage Spills from Hamilton Water Infrastructure Webpage

Staff will create a map-based webpage where information about sewage spills originating from Hamilton Water infrastructure will be recorded and available as public information. This webpage will provide background information on Hamilton Water's sewer inspection programs, include a registry of all sewage spills originating from Hamilton Water infrastructure and will show the location of each spill on an interactive map. Figure 1 below outlines the information that will be included in the registry:

Figure 1

Date of Discovery	Location	Background / Cause	Corrective Actions	Date Remediation Complete	Estimated Spill Volume	Estimated Duration of Spill	Cost of Repair

Communications Process

If a potential sewage spill from Hamilton Water infrastructure is identified, staff will notify the Ministry of Environment Conservation and Parks of the potential spill through the Spills Action Centre. Staff will then investigate the situation further to confirm if there is a spill occurring from Hamilton Water infrastructure or from a private cross-connection.

- If a spill is confirmed staff will follow up with the Spills Action Centre with the appropriate information.
- If the investigation determines that there is a private sewer lateral cross-connection staff will follow the processes that have been created under the sewer lateral cross-connection program.
- If the investigation confirms a sewage spill originating from Hamilton Water infrastructure the communication protocols will be based on the relative magnitude of the spill.

Figure 2 outlines the various communication channels that would be used in each scenario. Figure 3 outlines 3 different scenarios that would be used as a general guide to trigger a specific response protocol. The guidelines below are meant to be minimum

levels of communication. It is recognized that each situation may have unique factors that may require increased levels of communication.

Figure 2

Communication Channel	Response Scenario A	Response Scenario B	Response Scenario C
Public Health Services Notification via E-Mail	x	x	x
Resident Notification - Immediately Impacted Residents and Ward Councillor - if traffic or service disruption occurs	x	x	x
Post on City Website (dedicated webpage)	x	x	x
Notify General Manager via e-mail	x	x	x
Notify Senior Leadership Team/Council via E-Mail		x	x
Media Note (e-mail from Comms to local media)		x	x
Media Release			x
Press Conference			x
City of Hamilton Social Media		x	x
City of Hamilton E- Newsletter (for subscribers)	x	x	x
Notify Stakeholders (see below for list)			x

FIGURE 3

Scenario Matrix	Scenario A	Scenario B	Scenario C
# of Properties Connected	Up to 10 properties	11-49 properties	50 + properties
Volume of Spill	Up to 100 million litres	101 million litres to 500 million	Over 500 million litres

The scenario response will be based on the highest factor in Figure 3. For example, a cross-connection with 5 houses with an estimated spill volume of 150 million litres would trigger Response Scenario B in Figure 2; or, if there were a cross-connection with 15 houses and an estimated spill volume of 50 million litres this would also trigger Response Scenario B in Figure 2.

The following additional stakeholders will be directly notified in Response Scenario C in Figure 2:

Internal City Stakeholders

- General Manager, Public Works
- City Manager
- Office of the Mayor
- Ward Councillor
- Public Works Committee Chair

External Stakeholders

- Hamilton Harbour Remedial Action Plan partners
- Haudenosaunee Confederacy Chiefs Council
- Huron-Wendat Nation
- Mississauga's of the Credit First Nation
- Six Nations of the Grand River
- Joint Stewardship Board in the event of a discharge to Red Hill Creek
- The following Agencies in the event of a discharge to lands or waters under their jurisdiction:
 - Hamilton-Oshawa Port Authority
 - Royal Botanical Gardens
 - Hamilton Conservation Authority
 - Halton Regional Conservation Authority
 - Niagara Regional Conservation Authority
- Local Industry or impacted landowners in the area of outfalls to the environment



Public Works Department
Hamilton Water Division
Compliance and Regulations
700 Woodward Ave.
Hamilton, Ontario L8H 6P4
Phone: 905.546.2424 X2671 Fax: 905.545.0234
Email: Susan.Girt@hamilton.ca

February 3, 2023

File No. BCOS

Tyler Kelly, Senior Environmental Officer/Provincial Officer
Drinking Water and Environmental Compliance Division
Ministry of the Environment, Conservation and Parks
119 King Street West, 9th Floor
Hamilton, Ontario,
L8P 4Y7

RE: Burlington Street Spill, Provincial Officer's Order Number 1-142403769

Dear Mr. Kelly,

The MECP issued Provincial Officer's Order Number 1-142403769 on January 18, 2023 to the City of Hamilton (the Order) under the authority of *the Environmental Protection Act (EPA)*, and the *Ontario Water Resources Act (OWRA)*.

This letter is being provided as the City's submission respecting the Order Items #1 and #2.

Item #1 of the Order required the City to:

Compliance Due Date: 02/06/2023

Retain the services of a Qualified Person(s) that has experience and qualifications with the following order items.

Item #2 of the Order required the City to:

Compliance Due Date: 02/06/2023

Submit to the undersigned Provincial Officer written confirmation that the Qualified Person(s) has been retained to carry out the work specified in this Order, that a copy of the Order has been given to the Qualified Person(s) and that the Qualified Person(s) has the experience and qualifications to carry out the work.

Joanne Di Caro, Independent Consultant is in the process of being retained by the City to complete Item #3 of the Order. Ms. Di Caro was the Manager of Toronto's Sewer and Water Bylaw compliance and enforcement teams and helped develop and implement the Outfall Monitoring Program (Design, Implementation & Operations) of the City of Toronto for 15 years. Please find attached the Bio for Joanne Di Caro. Additionally, on February 1, 2023, Hamilton Water met with Lawson Oates, Diane Sertic and David Trieu from the City of Toronto who currently maintain the program and will be sharing information as the City of Hamilton develops our sampling program to identify unauthorized discharges of untreated sewage within the City of Hamilton storm and combined sewer system that discharges or potentially discharges to the Natural Environment.

Stantec Consulting has been retained by the City to complete Item #5 of the Order. Stantec was selected by the City based on their familiarity and knowledge of the City of Hamilton's separated and combined sewer systems, through current and past projects such as the Hamilton Real Time Control (RTC), Hamilton Pollution Prevention and Control Plan Update (PPCP), and the Hamilton Combined Sewer Overflow (CSO) flow monitoring program. In addition, Stantec will leverage their corporate experience with other Ontario and Canadian

Subject: Burlington Street Spill, Order 1-142403769
February 3, 2023

Page 2 of 2

municipalities managing combined sewer overflows, cross connection programs, and the prevention of unauthorized sewage discharges. Specific subject matter experts that will be included on the Stantec team include Adrien Comeau, M.Eng., P.Eng. (33 years' industry experience), Gerry Bauer, P.Eng. (41 years' industry experience), and Mike Kocher, P.Eng. (15 years' industry experience).

In response to Item #7 of the Order, Hamilton Water staff will be updating the City's programs and processes for identifying Spill(s) and unauthorized discharges of untreated sewage within the City of Hamilton sewer system, including the program enhancements identified in the Items above. Operating procedures, guidance documents or reports will be created, updated, distributed and retained in accordance with the Document Control and Record Control procedures of the City of Hamilton Wastewater Quality Management System (WWQMS). Staff will be trained on the new or revised procedures and processes.

Should you have any questions regarding this submission, please contact me directly.

Sincerely,

Susan Girt

Susan Girt
Manager, Compliance & Regulations
Hamilton Water

Copy to:

S. Burt, MECP District Manager, Hamilton District Office
E. Chee Sing, MECP, Water Compliance Supervisor
C. Khan, General Manager Public Works
N. Winters, Director Hamilton Water
S. McCauley, Director Water and Wastewater Operations
M. Bainbridge, Director Water and Wastewater Planning & Capital
C. Vanderperk, Director Watershed Management



Hamilton

BURLINGTON STREET SEWAGE SPILL UPDATE

FEBRUARY 13, 2023

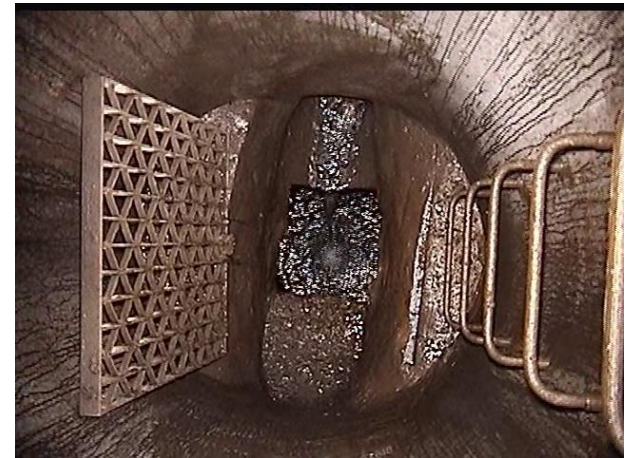
OUTLINE

- **Burlington Street & Wentworth Street North Spill**
- **Risk-based Inspection Program Pilot**
- **Discoveries at Rutherford Avenue / Myrtle Avenue, Kinrade Avenue**
- **Provincial Order**
- **Recent Actions**
- **Next Steps**
- **Communications Guideline**



BURLINGTON STREET & WENTWORTH STREET NORTH

- November 22, 2022 - improper sewer connection was identified by City staff, long-term sewage spill to Hamilton Harbour
- Immediately deployed vacuum truck to capture flows and prevent additional discharges
- November 23, 2022 – within 33 hours of discovery, improper connection fixed with no possibility to reoccur
- Improper connection lasted ~26 years, estimated 337 million litres released to Hamilton Harbour



Combined sewer with 'cut out' directing sewage into a storm sewer

RISK-BASED INSPECTION PILOT

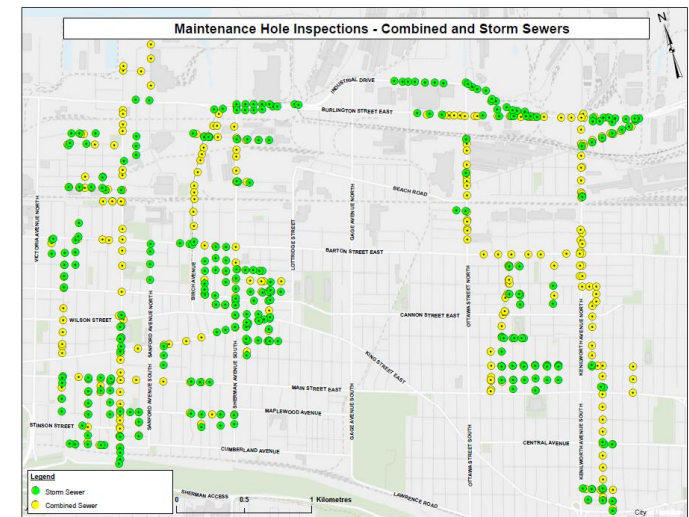
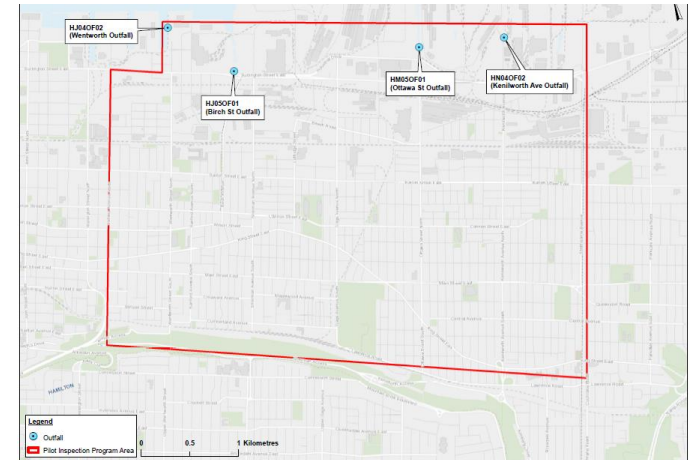
- Proactive investigations for cross-connected sewers or spills that may exist within the combined sewer system
- Complexities with Hamilton's combined sewer system, 192 critical regulators (key connections between combined and storm sewers during wet weather)
- Since 2019 (pre-pilot), physical inspections completed twice per year at all 192 critical regulators



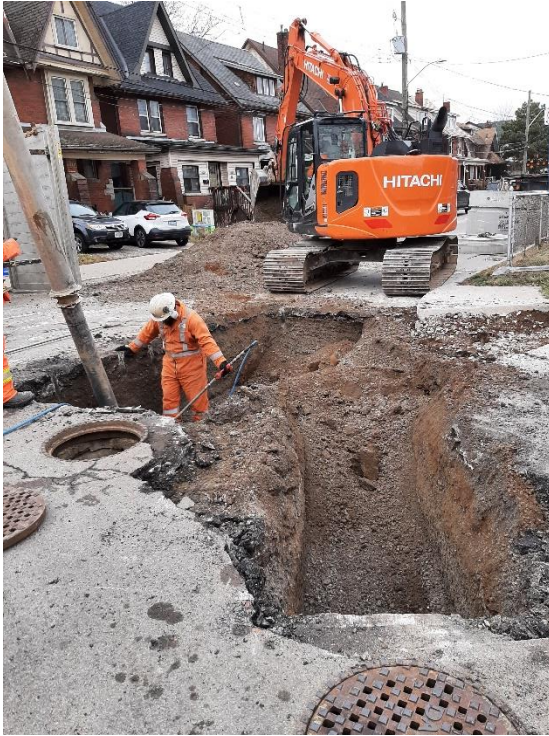
Sewer regulators in Hamilton's combined sewer system

RISK-BASED INSPECTION PILOT

- 4 primary storm sewer outfalls in the downtown core receive combined sewer overflows, at the northern ends of:
 - Wentworth Street North, Birch Avenue, Ottawa Street North, and Kenilworth Avenue North
- Risk-based pilot will inspect 631 maintenance chambers upstream of these 4 primary outfalls
- The close proximity of a combined sewer and a storm sewer makes it more likely that an incorrect connection could have been made



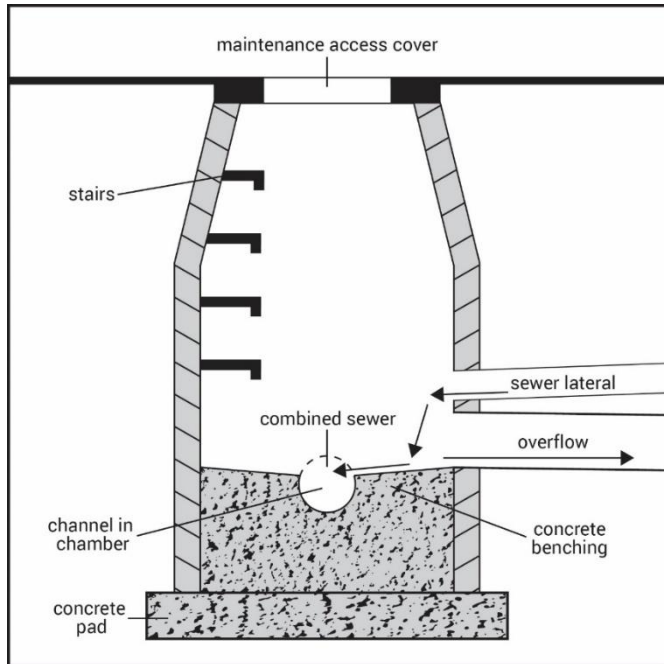
RUTHERFORD AVENUE & MYRTLE AVENUE



Cross-connection repair at Rutherford Avenue & Myrtle Avenue

- January 9, 2023 - improper cross-connected sewer identified by City staff
- Immediate deployment of vacuum trucks to capture and prevent additional discharges
- January 11, 2023 - sewer was re-configured, additional maintenance hole installed, successful connection of combined sewer from Rutherford Ave to combined sewer on Myrtle Ave
- Occurred in 1996 during a City-led capital construction project
- Cross-connection lasted ~26 years, estimated 59 million litres of sewage to Hamilton Harbour

KINRADE AVENUE



Cross-section of Kinrade Avenue sewage spill location (configuration at time of discovery)

- January 18, 2023 - issue discovered at single residential sewer lateral connected to a combined sewer pipe
- Sewer design issue may have allowed some sanitary wastewater from a single home to discharge to an overflow pipe which leads to a storm sewer pipe
- January 19, 2023 – within 20 hours of discovery, sanitary sewer lateral re-aligned to directly connect to combined sewer pipe in a different location
- Originally occurred in 1982 during a City-led capital construction project
- Design issue existed for ~41 years, leading to a *maximum* sewage spill volume of 0.47 million litres

PROVINCIAL ORDER

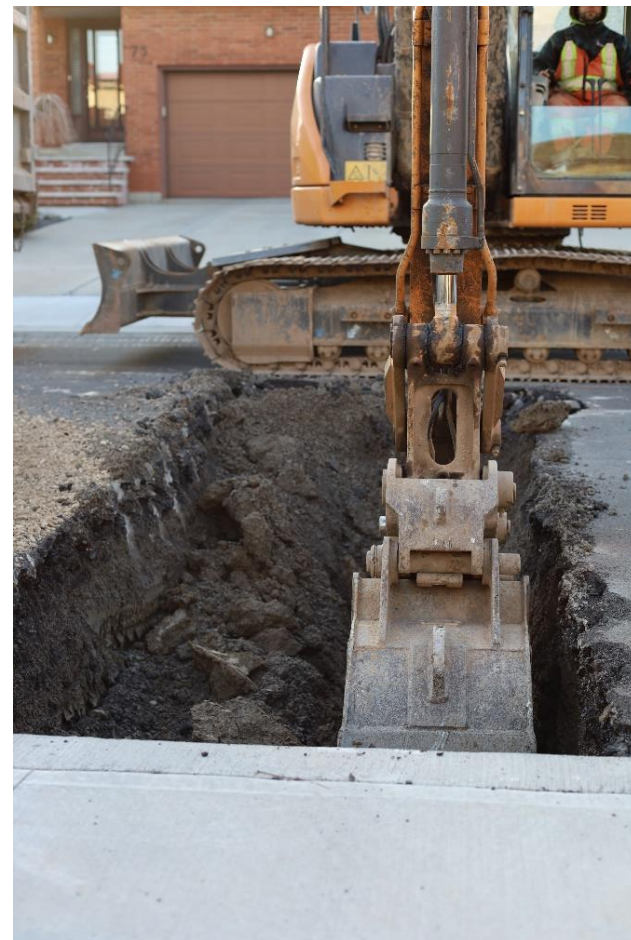


Surface Water Quality Monitoring Program

- January 18, 2023 - MECP Provincial Officer's Order issued to the City
- Focuses on enhancement of investigating cross-connections in the combined sewer system
 - Identify qualified persons
 - Enhance sampling program
 - New/revised procedures
 - Analysis and recommendations for enhancing sewer inspection programs (discuss detailed in-pipe program vs. risk-based program)
 - Complete gap analysis of sewer inspection programs versus industry peers

RECENT ACTIONS

- Since December 3, 2022, Hamilton Water staff have identified 7 previously uncharted critical regulators as well as 2 improper cross connections, both of which were corrected
- Response for Items 1 and 2 of the order were submitted to the MECP on February 3, 2023
- Risk-based pilot completion (as of January 30, 2023):
 - 191 out of 292 combined sewer maintenance chamber inspections completed
 - 216 out of 339 storm sewer maintenance chamber inspections completed
 - Remaining inspections expected to be completed by the end April 2023



NEXT STEPS

- Complete risk-based inspection pilot program
- Develop enhanced sampling program with peer review by expert consultant. Submit response to MECP by March 17, 2023
- Complete analysis of inspection programs (detailed in-pipe vs. risk based) and gap analysis. Submit response to MECP by May 12, 2023
- Document programs and processes for identifying spills and unauthorized discharges of untreated sewage in procedures and a guidance document. Submit response to MECP by June 30, 2023
- Implement Communications Guideline for future sewage spills - immediate



COMMUNICATIONS GUIDELINE

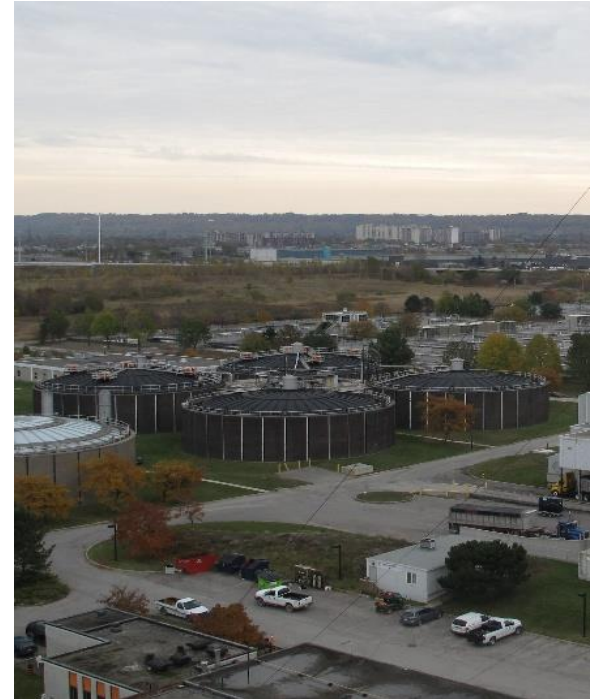
- Provides transparency and consistency in communicating sewage spills from the City's sewer infrastructure
- Complement to the City's protocol for communicating combined sewer overflows and wastewater treatment plant bypasses
- Three (3) different scenarios that would be used as a general guide to trigger a specific communications protocol:

	Scenario A	Scenario B	Scenario C
# of Properties Connected	Up to 10 properties	11-49 properties	50 + properties
Volume of Spill	Up to 100 million L	101 million to 500 million L	Over 500 million L

COMMUNICATIONS GUIDELINE

In Scenario C (50+ properties or 500 million litre spill or greater), additional stakeholders will be notified:

- Hamilton Harbour Remedial Action Plan partners
- First Nations – Six Nations of the Grand River, Mississaugas of the Credit First Nation, Huron-Wendat Nation, Haudenosaunee Confederacy Chiefs Council
- Joint Stewardship Board in the event of a discharge to Red Hill Creek
- Hamilton-Oshawa Port Authority
- Royal Botanical Gardens
- Hamilton Conservation Authority
- Halton Regional Conservation Authority
- Niagara Regional Conservation Authority
- Local industry or impacted landowners in the area of outfalls to the environment



PW22088(a) RECOMMENDATIONS


- a) That the General Manager, Public Works be directed to notify the Mayor and City Council members via e-mailed Communication Update with the submission of all responses to the Provincial Officer's Order Number 1-142403768 (the Order) issued by the Ministry of the Environment, Conservation and Parks (MECP), at the same time that the responses to the Order are submitted to the MECP;
- b) That the General Manager, Public Works be directed to publish all responses to the Provincial Officer's Order Number 1-142403768 (the Order) issued by the Ministry of the Environment, Conservation and Parks to the City of Hamilton website for public availability;
- c) That the General Manager, Public Works be directed to prepare a report to the Public Works Committee, following the submission of all responses to the Provincial Officer's Order Number 1-142403768 (the Order) issued by the Ministry of the Environment, Conservation and Parks, that identifies all program changes resulting from the Order including financial and staffing requirements;
- d) That Appendix "F" attached to Report PW22088(s) respecting Hamilton Water Sewage Spills Communications Guideline be approved for implementation; and
- e) That the General Manager, Public Works be directed to provide an annual update report to the Public Works Committee regarding sewage spills from City of Hamilton sewer infrastructure.



QUESTIONS



INFORMATION REPORT

TO:	Chair and Members Public Works Committee
COMMITTEE DATE:	February 13, 2023
SUBJECT/REPORT NO:	2023 <i>Lymantria dispar dispar</i> (LDD) Moth Treatment Plan (PW21069(b)) (City Wide) (Outstanding Business List Item)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Robyn Pollard (905) 546-2424 Ext. 3919 Kristen Bill (905) 546-2424 Ext. 5495
SUBMITTED BY:	Cynthia Graham Acting Director, Environmental Services Public Works Department
SIGNATURE:	

COUNCIL DIRECTION

Report PW21069(a), approved on January 19, 2022 at Public Works Committee, directed City of Hamilton staff to implement aerial treatment of *Lymantria dispar dispar* (LDD) Moth. Report PW21069(b) fulfils the requirement of reporting on the 2022 spray program and anticipated program for 2023.

INFORMATION

Report PW21069 outlines the biology and history of LDD moth in Ontario, as well as the legislation and historical management. Report PW21069(a) outlines the 2022 LDD Moth Treatment Plan.

In the Spring of 2022, aerial treatment was conducted by Zimmer Air Services for the areas that exceeded the recommended treatment threshold. A total of 925 hectares in Ancaster, Dundas, Hamilton and Waterdown were treated with two applications of organic biological insecticide - Foray 48 Biological Insecticide Aqueous Suspension (PCP# 24977). Foray 48B contains bacillus thuringiensis 'kurstaki' (Btk), which is registered to control caterpillars and effective at management of LDD moth populations.

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: 2023 *Lymantria dispar dispar* (LDD) Moth Treatment Plan
(PW21069(b)) (City Wide) – Page 2 of 3**

The first application was applied on May 24, 2022 and the second application was applied on May 31, 2022.

In the Fall of 2022, Lallemand Inc. was engaged to complete egg mass surveys for potential infestations of LDD Moth in publicly owned areas of concern across the City of Hamilton based on previous egg mass surveys and resident reports. The egg mass surveys are used to generate defoliation forecasts for the next year and recommend a treatment program based on that forecast.

Of the 122 plots surveyed, low levels of infestations were reported, indicating a successful 2022 Spring aerial treatment program. New egg masses were found on only 35% of plots surveyed which indicates that the LDD moth population is in a declining phase after the elevated populations seen in Hamilton in the previous two years.

Survey results show there are some persistent pockets of infestation, particularly in Dundas (Dundas Driving Park, Fisher's Mill Park), Ancaster (Ancaster Community Park), and in Hamilton (Woodland Cemetery) that may experience severe to moderate defoliation in 2023. In light of these pockets, a localized treatment program will be completed in 2023, including ground spray treatment with Btk, manual egg mass scraping and tree banding. The areas recommended for localized treatment are outlined in Appendix "A" of Report PW21069(b).

An aerial spray program in 2023 is not recommended based on the data collected as the areas of high LDD population are localized and can be managed with non-aerial methods. Aerial spray programs are only economical or practical when LDD populations are in widespread, contiguous areas at levels that would result in severe defoliation.

Communication and outreach to the community surrounding the localized public properties identified in Appendix "A" of Report PW21069(b) will be included as part of the treatment program, along with continued monitoring of LDD populations in 2023 following localized treatment of control methods.

The 2023 LDD Moth treatment program will cost \$130,000, which is affordable within the current allocated funding for the program, approved through Report PW21069(a).

Staff have consulted with the City of Toronto, City of Burlington, and the Town of Oakville regarding LDD populations, they all noted an LDD population decline similar to the City of Hamilton. These municipalities will not be conducting aerial spraying for LDD Moth control in 2023, at this time. Staff have also consulted Conservation Halton and the Hamilton Conservation Authority. Both have seen LDD population declines and will not be conducting any spray programs in 2023.

**SUBJECT: 2023 *Lymantria dispar dispar* (LDD) Moth Treatment Plan
(PW21069(b)) (City Wide) – Page 3 of 3**

APPENDICES AND SCHEDULES ATTACHED

Appendix “A” to Report PW21069(b) – LDD Treatment Plots 2023

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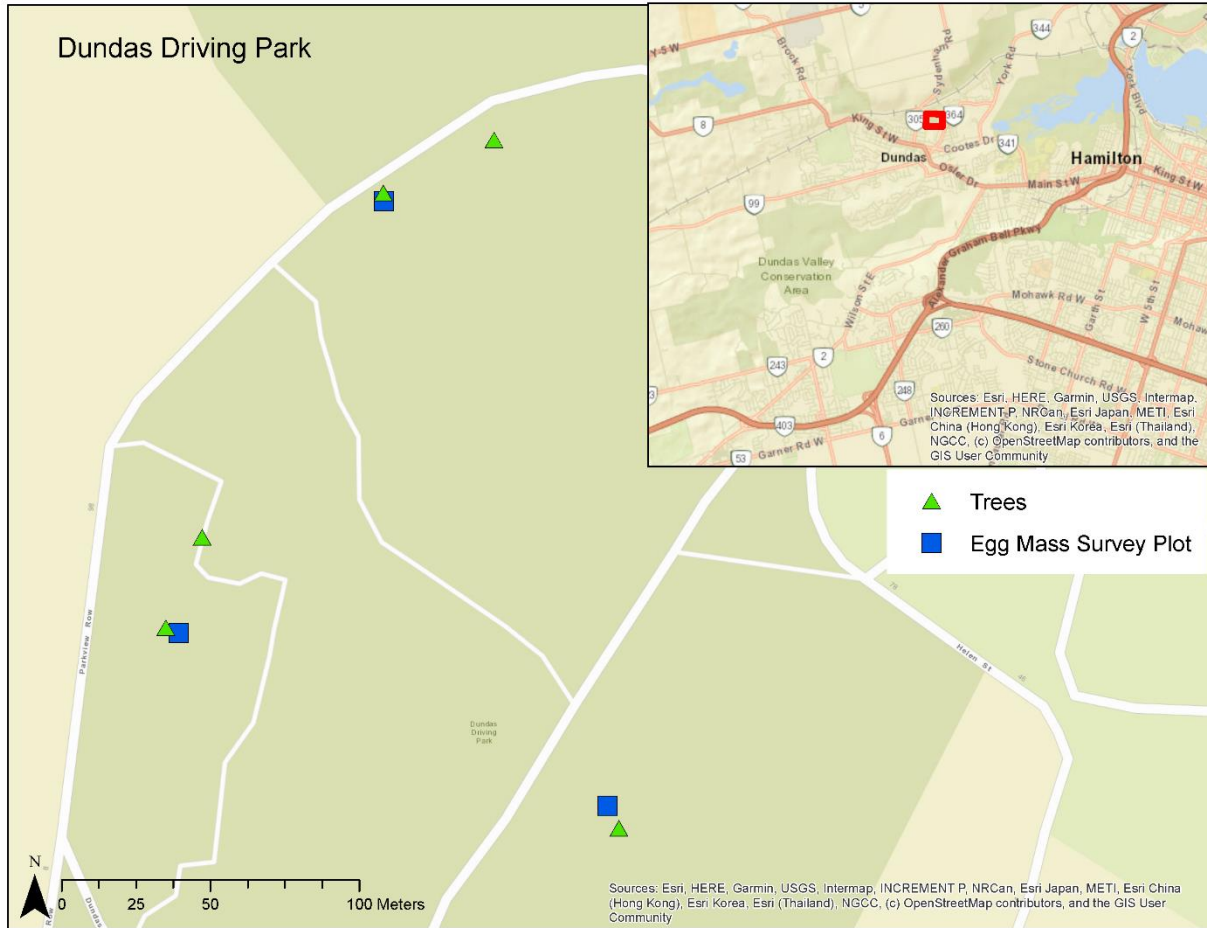


Figure 1. Proposed trees (n = 5) for 2023 LDD moth control program in the Dundas Driving park.

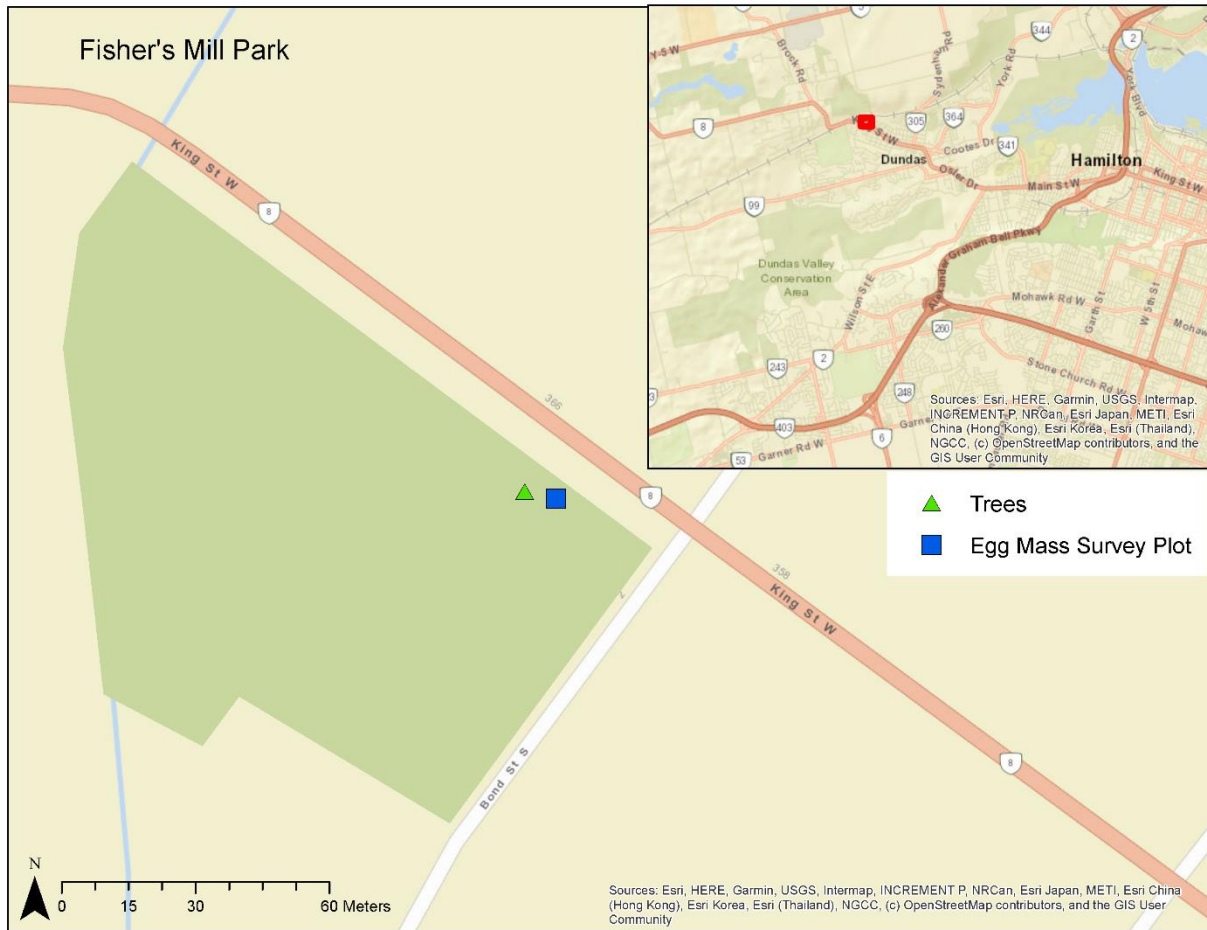


Figure 2. Proposed trees (n = 1) for 2023 LDD moth control program in the Fisher's Mill Park

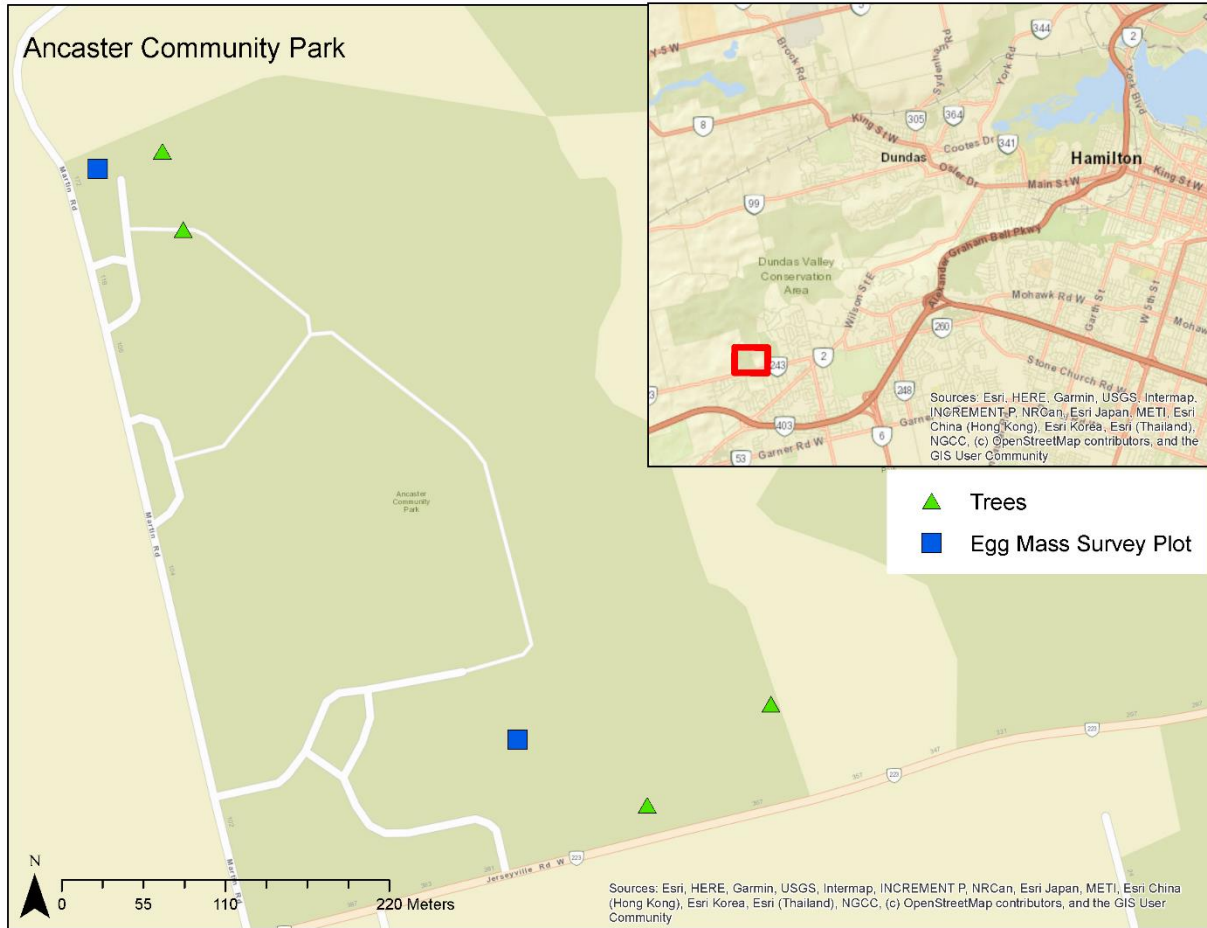


Figure 3. Proposed trees (n = 4) for 2023 LDD moth control program in the Ancaster Community Park.

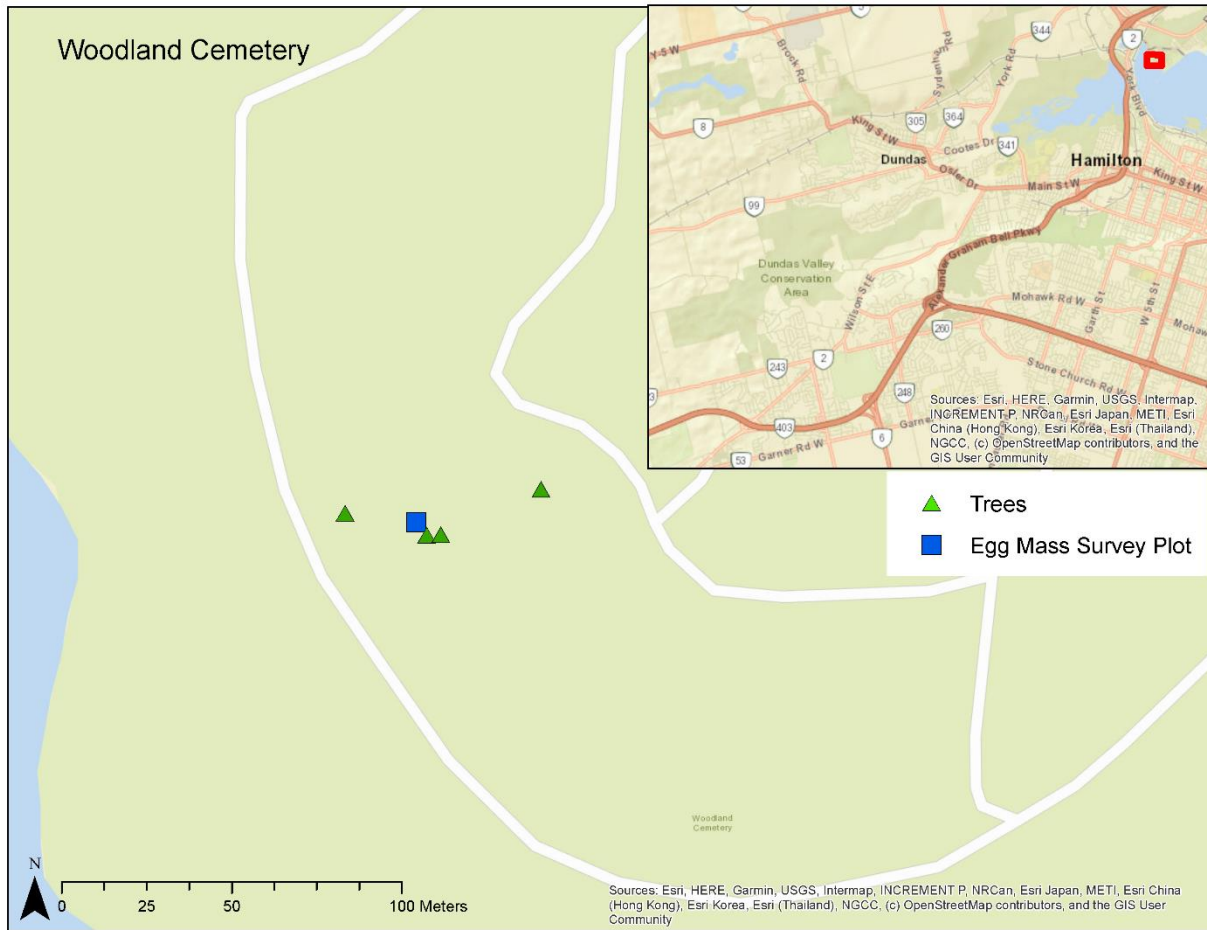



Figure 4. Proposed trees (n = 4) for 2023 LDD moth control program in Woodland Cemetery.



INFORMATION REPORT

TO:	Chair and Members Public Works Committee
COMMITTEE DATE:	February 13, 2023
SUBJECT/REPORT NO:	Scenic Reservoir – Planned Maintenance Non-Event (PW23012) (Wards 1, 2, 13 and 15)
WARD(S) AFFECTED:	Wards 1, 2, 13 and 15
PREPARED BY:	Nick Winters (905) 546-2424 Ext. 1474
SUBMITTED BY:	Nick Winters Director, Hamilton Water Public Works Department
SIGNATURE:	

COUNCIL DIRECTION

N/A

INFORMATION

This report has been prepared in keeping with Hamilton Water's responsibilities under the Province of Ontario's Safe Drinking Water Act and O. Reg 170, as the Operating Authority for the City of Hamilton's Drinking Water Systems. The contents speak to a material of concern that was identified in the Scenic Reservoir, and the actions that have been taken to ensure that this material did not impacting drinking water quality.

Hamilton Water and Public Health Services have worked very closely to investigate this matter and found no evidence of contamination of City drinking water. As required by the regulation, notifications regarding the investigation and findings have been provided to the Ministry of the Environment, Conservation and Parks, and to Halton Region who the City of Hamilton supplies with drinking water.

The Scenic Reservoir stores treated drinking water for distribution to parts of Ward 1, Ward 2 and Ward 13, and to the community of Waterdown in Ward 15. This reservoir has two (2) cells, east and west, and it was constructed in the early 1970s.

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**SUBJECT: Scenic Reservoir - Planned Maintenance Non-Event (PW23012)
(Wards 1, 2, 13 and 15) – Page 2 of 4**

In the fall of 2021 and continuing through the winter, a project was planned by Hamilton Water to address the immediate need to repair the reservoir expansion joints. The original project schedule was for repairs to be completed in both reservoir cells in succession during the winter months. In addition to the joint repairs, Hamilton Water's asset management team planned to use the opportunity to complete a thorough condition assessment for each reservoir cell, which was undertaken by R.V. Anderson Associates Limited (RVA).

The project began in the east cell, while the west cell remained in service. However, supply chain delays stalled the project, and due to the requirement to have both reservoir cells in service by May 1st, the work in the west cell had to be postponed. Only the east reservoir cell repair work was completed, along with the condition assessment for that cell, after which it was cleaned, disinfected and put back into service. In the fall of 2022, the contractor returned to the site to complete the repairs to the west reservoir cell. At the same time, RVA also returned to the reservoir to complete the condition assessment for the west cell. While completing their work, as part of a Senior Structural Engineering Quality Control Review in early January 2023, the RVA project manager noticed flaking material on the reservoir support columns and sections of the west reservoir cell walls and floor. The project manager suggested that this material be tested for chemical composition. Samples of the material were collected on January 12, 2023 and submitted for metals analysis. The test results were received on January 19, 2023 and they showed that the material contained several metals with concentrations that could affect the quality of the drinking water stored in the reservoir. The results from the tests were identified to the Hamilton Water Leadership Team (HWLT) on January 26, 2023.

The test results prompted the HWLT to request more information about the work that was being undertaken and the history of work at the reservoir. Late in the day on Friday, January 27, 2023, the HWLT learned that the same material was noted in the east reservoir cell during the work earlier in 2022, and that the project for the east reservoir cell did not include 100% removal of the material. The HWLT was concerned about any material that remained in the east reservoir cell prior to it being put back into service, and whether this material could impact the quality of the drinking water. The HWLT immediately engaged Public Health Services to discuss the situation and plans were put into motion to assess whether there was any evidence of drinking water contamination in the east reservoir cell, or anywhere in the downstream water distribution system. A sampling program was implemented the night of January 27, 2023 and throughout the ensuing weekend to assess the drinking water in Wards 1, 2, 13, and 15 for any evidence of abnormal metals concentrations. The sampling program included samples collected at 10 different locations which are indicated on the map included as Appendix "A" to Report PW23012. Halton Region staff were also notified of the investigation the morning of January 28, 2023, and they elected to begin collecting samples at three (3) locations within their drinking water systems.

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**SUBJECT: Scenic Reservoir - Planned Maintenance Non-Event (PW23012)
(Wards 1, 2, 13 and 15) – Page 3 of 4**

Between January 27 and February 3, 2023, ten (10) rounds of samples (100 total samples) were collected by Hamilton Water staff and analysed for metals concentrations. **None the sample results have indicated any abnormal metals concentrations** in the drinking water for Wards 1, 2, 13, and 15 (Waterdown), and the quality of the drinking water is the same as the water produced at the Woodward Water Treatment Plant. Halton Region staff also collected two (2) rounds of samples (6 total samples) within their drinking water systems which were analysed for the same parameters, these also showed no evidence of elevated metals concentration.

The nature of the material identified in the Scenic Reservoir is such that when it is wet it forms a soft coating that adheres to concrete, but if physically disturbed it can mix with the drinking water. When the coating dries it becomes brittle and flakes. When the reservoir cells are in service, they always contain water, and it is expected that the coating remains wet and does not migrate into the water distribution system.

Hamilton Water is currently investigating what will be required to remove 100% of the coating material from the west reservoir cell prior to returning it to service. This may require high pressure washing, sandblasting, or a different means of removal. Once the west cell has been returned to service, the east cell will need to be drained and taken out of service in order to remove any coating that remains in that cell. Schedules for this work are currently being developed, but it is likely that the work in the east cell cannot proceed until October of 2023 since both reservoir cells must be in service between May and September in order to meet community water demands.

In the interim, in collaboration with Public Health Services, and out of an abundance of caution, Hamilton Water has implemented an enhanced drinking water monitoring program for the Scenic Reservoir east cell and Wards 1, 2, 13, and 15 (Waterdown). This program will remain active until the east reservoir cell is taken out-of-service for the coating removal work.

Hamilton Water is also undertaking the following investigative actions:

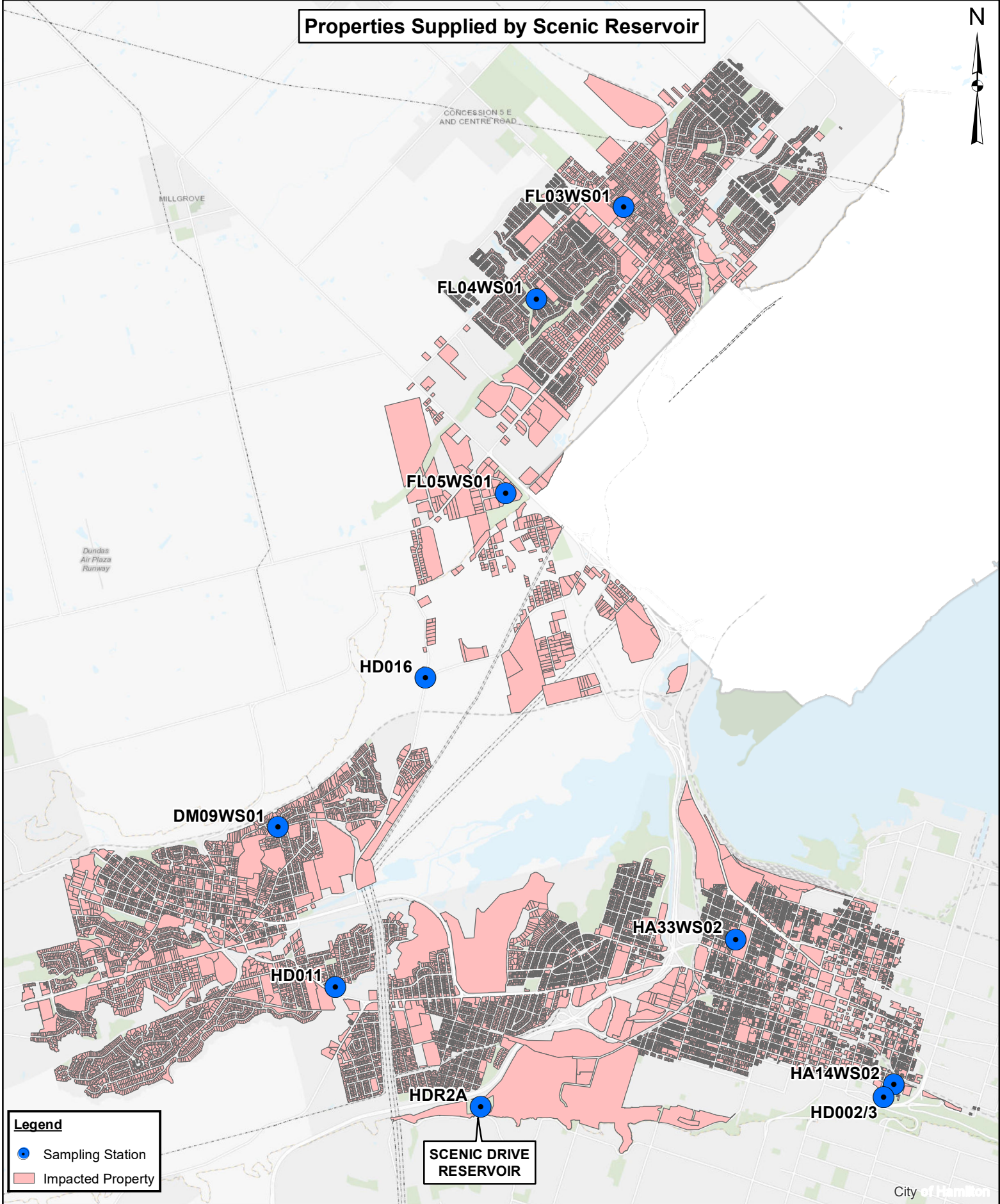
1. A review of all available assessment data for the City's other drinking water reservoirs to identify if similar observations or conditions have been noted at any of these facilities;
2. Discussions with RVA regarding the condition assessment work that was completed for the east reservoir cell in early 2022 and why sampling of the material in that cell was not recommended or conducted;
3. Jacobs Engineering Group has been retained to complete a risk assessment for the presence of the coating material in a live reservoir cell. They will also conduct an analysis of the risks within the drinking water system if the entire reservoir were taken out of service.

**SUBJECT: Scenic Reservoir - Planned Maintenance Non-Event (PW23012)
(Wards 1, 2, 13 and 15) – Page 4 of 4**

Hamilton Water has sought and received Policy 10 (Emergency Procurement) approval from the General Manager, Public Works for any required expenditures to facilitate the additional work at the Scenic Reservoir. Notification to Council regarding these expenditures will be provided as required by the City's Procurement Policy By-law No. 22-255.


APPENDICES AND SCHEDULES ATTACHED

Appendix "A" to Report PW23012 – Properties Supplied by the Scenic Reservoir





CITY OF HAMILTON
PUBLIC WORKS DEPARTMENT
Environmental Services Division

TO:	Chair and Members Public Works Committee
COMMITTEE DATE:	February 13, 2023
SUBJECT/REPORT NO:	White Brick Church Cemetery (PW22050(a)) (Ward 12)
WARD(S) AFFECTED:	Ward 12
PREPARED BY:	John Perrotta (905) 546-2424 Ext. 4402
SUBMITTED BY:	Cynthia Graham Acting Director, Environmental Services Public Works Department
SIGNATURE:	

RECOMMENDATIONS

- (a) That the City of Hamilton voluntarily accept the administration and operation of White Brick Church Cemetery, located at 99 Garner Road East, Ancaster, ON L9G 3K9, by a transfer of the operation through the Bereavement Authority of Ontario from the White Brick Church Cemetery c/o Donna Smith to the City of Hamilton;
- (b) That the General Manager of Corporate Services be authorized and directed to acquire the lands located at 99 Garner Road East, Ancaster, ON L9G 3K9, as shown in Appendix "A" attached to Report PW22050(a), subject to the condition described in Recommendation (c) of Report PW22050(a), on an as-is, where-is basis, and assume the operation of the White Brick Church Cemetery located on the Lands, for nominal consideration and on such additional terms and conditions deemed appropriate by the General Manager of Public Works, or their delegate;
- (c) That the General Manager of Public Works be directed to determine whether, in fulfilling the direction to acquire the White Brick Church Cemetery, a smaller portion of the Lands excluding the building may be acquired by the City in conformity with the applicable Official Plan and Zoning By-law and any other applicable City policies and By-laws, and in the event that the determination is that a smaller portion may be acquired, that the lands to be acquired in

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SUBJECT: White Brick Church Cemetery (PW22050(a)) (Ward 12) – Page 2 of 8

accordance with Recommendation (b) of Report PW22050(a) be reduced accordingly and staff be directed to obtain a reference plan describing the portion of the Lands to be acquired, in a form satisfactory to the City Solicitor or their delegate;

- (d) That Real Estate and Legal fees estimated at \$2,500 be funded from existing budget under Cemeteries Dept. ID 492001, and be transferred to Dept. ID 812036 (Real Estate – Admin Recovery), Account 59806 in the Planning & Economic Development Department;
- (e) That the General Manager of Public Works be authorized and directed to execute all documentation necessary to transfer ownership and operations of the White Brick Church Cemetery to the City of Hamilton, including all assets and receipt of a contribution of \$8,000.00 from the current operators into the City of Hamilton's Care and Maintenance Trust Fund (Dept ID #120015) upon transfer of cemetery operation to the City of Hamilton; together with any ancillary documentation required to give effect to the Recommendations in (a) and (b), in a form satisfactory to the City Solicitor or their delegate;
- (f) That the City Solicitor or their delegate be authorized and directed to take all necessary steps, and execute all necessary documents to complete the transaction, including paying any necessary expenses, amending the closing, due diligence and other dates, and amending and waiving terms and conditions on such terms deemed reasonable;
- (g) That By-law 12-151 being a By-law respecting the City of Hamilton's Cemeteries, as amended, be further amended after the transfer of operation to include the White Brick Church Cemetery in Part 2 – List of Cemeteries Owned and Operated by Hamilton Municipal Cemeteries;
- (h) That the Director of Environmental Services or their delegate be authorized to enter into a volunteer agreement with Donna and Lyle Smith for the maintenance and upkeep of the Cemetery, with such terms and conditions in a form satisfactory to the City Solicitor;
- (i) That the General Manager of Public Works be authorized and directed to approve and execute all required agreements and ancillary documents, save and except for the volunteer agreement, with such terms and conditions in a form satisfactory to the City Solicitor; and
- (j) That the Mayor and City Clerk be authorized and directed to approve and execute all required agreements and ancillary documents, save and except for the volunteer agreement, with such terms and conditions in a form satisfactory to the City Solicitor or their delegate.

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SUBJECT: White Brick Church Cemetery (PW22050(a)) (Ward 12) – Page 3 of 8

EXECUTIVE SUMMARY

At its June 13, 2022 meeting, Public Works Committee tabled Report PW22050, referring to the voluntary acceptance of ownership and operation of the White Brick Church Cemetery until further discussions were held with the Bereavement Authority of Ontario, City of Hamilton Parks and Cemeteries staff, City Councillor, and current operators of the Cemetery, Lyle and Donna Smith. This report responds to the motion of Committee and includes details of the reasonable consensus that was achieved through a productive meeting between the parties.

As outlined in Report PW22050, the Bereavement Authority of Ontario (BAO) is the delegated authority that administers provisions of the Funeral, Burial and Cremation Services Act, 2002 (FBCSA) on behalf of the Ministry of Public and Business Service Delivery (MPBSD). The FBCSA and associated Ontario Regulations, specifically Ontario Regulation 30/11, provides that an abandoned Cemetery become the responsibility of the local municipality. A municipality may voluntarily accept the transfer of responsibility for a Cemetery, together with a transfer of the land on which the Cemetery is situated. Alternatively, the municipality/Crown, the Registrar or the owner/operator of the Cemetery may apply to the Ontario Superior Court of Justice for an order of abandonment, which results in the municipality being required to take ownership and care responsibilities for the Cemetery.

Cemeteries staff understand that the City of Hamilton (City) can voluntarily accept White Brick Church Cemetery, shown in Appendix “A” attached to Report PW22050 and this report PW22050(a). If the City does not accept the Cemetery voluntarily, the staff at the BAO will file an application with the MPBSD to declare the Cemetery abandoned, in which case the City will be required to accept the Cemetery per the legislation. The voluntary acceptance is the least costly of the options that will result in the same outcome. Therefore, Recommendation (a) of Report PW22050(a) directs staff to voluntarily accept the Cemetery to avoid the additional costs associated with the legal proceedings.

Legislatively, the City is only required to accept the cemetery burial land area. The church located on the property is still actively used and it is not the desire of the staff to acquire the building. Cemetery and Real Estate staff will work with the BAO and current land owners to establish a new property boundary for the transfer of the cemetery lands only to City ownership. Recommendation (b) of Report PW22050(a) addresses transfer of property.

Alternatives for Consideration – See Page 7**FINANCIAL – STAFFING – LEGAL IMPLICATIONS**

SUBJECT: White Brick Church Cemetery (PW22050(a)) (Ward 12) – Page 4 of 8

Financial: The City will receive a transfer of \$8,000 from the White Brick Church Cemetery operating fund, which will be deposited into the City's current Care and Maintenance trust fund (Dept ID #120015). There will be no operating impacts as Donna and Lyle Smith will continue to maintain the Cemetery on a voluntary basis.

Real Estate and Legal fees, estimated at \$2,500, are required to fund the necessary work to transfer ownership. There are existing funds available in Cemeteries Dept. ID 492001, to be transferred to Dept. ID 812036.

If the City is required to take on the operation at a future date, there will be financial implications. For information purposes only, this is estimated to be \$67,500 per year, at current costs.

Staffing: There are no staffing implications associated with the recommendation in this report. If the City is required to take on the operation at a future date, there may be staffing implications at that time.

Legal: Legal Services will be required to assist in the preparation of the documentation required to complete the transfer as contemplated in Report PW22050a and prepare the necessary amendment to By-law 12-151.

HISTORICAL BACKGROUND

As stated in Report PW22050, on November 26, 2021, City Cemetery staff received a letter from Mr. Michael D'Mello, Deputy Registrar of the BAO, advising that White Brick Church Cemetery (the Cemetery), which is located within the geographical boundaries of the City, is no longer being maintained to an acceptable standard. Parks and Cemeteries staff were requested to visit or contact the Cemetery owner/operator to discuss the condition, operations and care of the Cemetery.

On December 14, 2021, Parks and Cemeteries staff were able to locate the Cemetery owners/operators and provided their contact information to the BAO to further discuss their compliance with the applicable legislation.

On January 5, 2021, John Perrotta, Cemetery Superintendent received a telephone call from Mr. Michael D'Mello, requesting that the City voluntarily take over the operation of the Cemetery.

At its June 13, 2022 meeting, Public Works Committee tabled report PW22050, referring to the voluntary acceptance of ownership and operation of the White Brick Church Cemetery until further discussions were held with the Bereavement Authority of Ontario, City of Hamilton Parks and Cemetery staff and current operators of the Cemetery, Donna and Lyle Smith. An in-person meeting took place on June 29, 2022,

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SUBJECT: White Brick Church Cemetery (PW22050(a)) (Ward 12) – Page 5 of 8

10:00 a.m. at 300 Wilson Street East, Ancaster to discuss the transfer of White Brick Church Cemetery to the City of Hamilton, the following were in attendance: Councillor Ferguson, John Perrotta (Superintendent Cemeteries, City of Hamilton), Carey Smith (CAO/Registrar of BAO) Donna and Lyle Smith, Michael D’Mello (Deputy Registrar, BAO, attended virtually) Jim Cassimatis (Director of Operations, BAO, attended virtually). The recommendations of this report are the outcome of that meeting.

Due to restrictions on staff’s ability to bring forward recommendations for Council approval leading up to an election; the new report and finalized recommendations were planned for the new term of Council.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

The *Funeral, Burial and Cremation Services Act, 2002* and Regulations made thereunder establish a process for the declaration of a Cemetery as abandoned. This legislation applies to Cemetery lands only, and the City would not be obligated to accept the church that is part of the land parcel as shown in Appendix “A” attached to Report PW22050 and this Report PW22050(a).

RELEVANT CONSULTATION

Corporate Services Department - Legal and Risk Management Services Division –
 Legal Services Section
 Planning and Economic Development Department - Economic Development Division -
 Corporate Real Estate Office
 Finance and Corporate Services Department, Financial Planning Administration &
 Policy Division, Finance and Administration Section

ANALYSIS AND RATIONALE FOR RECOMMENDATION

As stated in Report PW22050, the Bereavement Authority of Ontario (BAO) has a duty to ensure that all cemeteries in Ontario are appropriately maintained in perpetuity. The 2020 Auditor General of Ontario’s Report – Value for Money Audit, identifies the maintenance and protection of cemeteries as a priority endeavour for the BAO as cemeteries are of heritage significance to the community and the Province.

Recommendation 3 under Section 4.2.1 of the Value for Money Audit, referring to Cemetery operators who have not renewed their operating licences, advises that all Cemetery operators that conduct business in Ontario are licensed to do so, and cannot be licensed if they are not operating appropriately. Part of the recommendation states that the BAO “make arrangement with local municipalities to take over those Cemetery operators with expired licenses that cannot be located or are unable to continue managing their cemeteries in perpetuity”.

SUBJECT: White Brick Church Cemetery (PW22050(a)) (Ward 12) – Page 6 of 8

Where a Cemetery owner cannot be located or is unknown, is unable to maintain the Cemetery, or is not licensed to operate the Cemetery, Section 101.1 of the Funeral, Burial, Cremation Services Act (FBCSA) permits the Crown/local municipality as applicable, the registrar, or the owner/operator of a Cemetery to apply for a declaration that a Cemetery has been abandoned. Upon the making of an application, the Crown/local municipality as applicable is responsible to maintain the Cemetery until the application is disposed of and is also responsible for the costs (including a survey) associated with the application unless the owner has made the application and the court refuses to declare the Cemetery abandoned. Where the court makes an order declaring that a Cemetery is abandoned, the Crown/local municipality as applicable becomes the owner of the Cemetery (with all the rights and obligations in respect of the Cemetery and the assets, trust funds and trust accounts related to it that the previous owner or operator had) upon registration of the order in the appropriate land registry office.

If the City does not voluntarily accept the ownership and operation of the Cemetery, it is staff's understanding that the MPBSD will initiate the abandonment process, where an order of abandonment is sought through the Ontario Superior Court of Justice. Where satisfied that the circumstances justifying an Order have been established, a Judge must declare the Cemetery abandoned. Where the Cemetery is declared abandoned, the cost of the application for abandonment (including any survey required) are the responsibility of the municipality. The approximate cost of the application is \$18,000 to \$20,000. In addition to the above, the City will also be responsible for the maintenance of the Cemetery until the application is disposed of. As the current owners/operators are not in compliance with the FBCSA and its regulations, it is anticipated that, upon an application to the court, a Judge would make an order declaring the Cemetery to be abandoned. A voluntarily acceptance of the Cemetery will avoid unnecessary costs associated with an application of abandonment to the Ontario Superior Court of Justice.

The BAO confirmed that there is no care and maintenance fund for White Brick Church Cemetery, there is only an operating fund. The BAO is satisfied with the agreement that the Church will transfer \$8,000 from current operating funds into the City's current Care and Maintenance Trust Fund as part of the transfer of operation to the City, ensuring White Brick Church Cemetery is compliant with the FBCSA.

The BAO has listed the Cemetery as active, meaning the Cemetery operator has, since January 1, 1995, sold interment rights and conducted burials. There are no unexercised interment rights, meaning there are no remaining burial lots available for sale. The City will have an opportunity to generate revenue while performing burials for existing interment rights only, as well as any associated Cemetery supplies and services, such as burial concrete vaults, cremations urns and addition of granite inscription.

As part of the meeting, Donna and Lyle Smith agreed to continue to maintain (ground maintenance) the cemetery under a volunteer agreement. If recommendation (h) of this report is approved, the City will finalize an agreement with Donna and Lyle Smith, in

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SUBJECT: White Brick Church Cemetery (PW22050(a)) (Ward 12) – Page 7 of 8

keeping with the intent that the current services will continue and at no cost to the City, permitting Donna and Lyle Smith to accept donations to support the maintenance of the cemetery. This arrangement supports continuation of a long-standing family-maintained cemetery, recognized positively by the community. As such, at this present time there is no need for the City to be providing the maintenance to the cemetery. The agreement will clearly distinguish the roles and responsibilities of the City of Hamilton and Donna and Lyle Smith. For example, Cemetery staff will monitor the cemetery maintenance to ensure it remains in acceptable condition.

ALTERNATIVES FOR CONSIDERATION

If Council does not direct staff to voluntarily accept ownership of the Cemetery, the BAO will refer the file to the Ministry of Public and Business Service Delivery (MPBSD) to file an application of abandonment. The Ontario Superior Court of Justice will determine if the Cemetery should be deemed an abandoned Cemetery. If deemed abandoned, it is reasonable to assume that the City would be required through legislation to take on maintenance of the Cemetery in perpetuity. If the cemetery is not declared abandoned, the City would only be engaged during the time to complete the application process.

Financial: If White Brick Church Cemetery is deemed abandoned, court costs will be incurred for the application of abandonment in the approximate amount of \$18,000 to \$20,000. This does not include an estimate for the participation of Legal Services in the abandonment process. Real Estate and Legal fees for the purchase of the property are estimated at \$2,500 and will be transferred to Dept. ID 812036. Operating impacts include an increase of \$67,500 in the annual operating budget, beginning in 2024, \$20,000 to the contractual line under dept ID 492001 – Ancaster Cemeteries and \$47,500 to the staffing line under dept ID 492100 – Ancaster Cemeteries.

If the Cemetery is not declared to be an abandoned Cemetery, the City will be responsible for maintenance of the Cemetery until the application is finally disposed of. There is no standard timeline to complete the application, and therefore, staff have estimated approximately one year and therefore the City can anticipate a financial impact of \$25,000 in 2023; \$20,000 to the contractual line under dept ID 492001 – Ancaster Cemeteries and \$5,000 to the overtime line (account 51106) under dept ID 492001 – Ancaster Cemeteries to support maintenance of the cemetery until the application is completed.

Staffing: The staffing implications associated with the alternative for consideration are: If the Cemetery is deemed abandoned, 0.5 FTE lead hand position would be required. If the Cemetery is not deemed abandoned, the existing staff complement is anticipated to be capable of maintaining this additional Cemetery in the short term through overtime hours.

SUBJECT: White Brick Church Cemetery (PW22050(a)) (Ward 12) – Page 8 of 8

Legal: If an application of abandonment is made Legal Services will be required to gather information for the Superior Court of Justice, participate in hearings and communications as required, assist in the preparation of the documentation required to complete the transfer as contemplated herein and prepare the necessary amendment to By-law 12-151, as amended. There would be additional costs with this option, that would exceed the \$2,500 identified under the recommendations of Report PW22050(a) and are unknown at this time as this process has not been undertaken at the city to date.

ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN**Culture and Diversity**

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

Our People and Performance

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

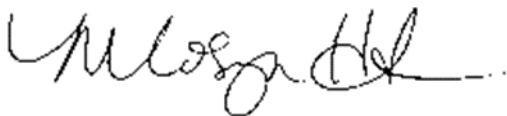
APPENDICES AND SCHEDULES ATTACHED

Appendix “A” attached to Report PW22050(a) – Map of White Brick Church Cemetery





INFORMATION REPORT

TO:	Chair and Members Public Works Committee
COMMITTEE DATE:	February 13, 2023
SUBJECT/REPORT NO:	Accessible Transportation Services and the Disabled and Aged Regional Transportation Service Policy (PW23009) (City Wide) (Outstanding Business List Item)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Michelle Martin (905) 546-2424 Ext. 2765
SUBMITTED BY:	Maureen Cosyn Heath Director, Transit Public Works Department
SIGNATURE:	

COUNCIL DIRECTION

At the March 23, 2022, meeting, in response to a motion from the Advisory Committee for Persons with Disabilities (ACPD), the General Issues Committee (GIC) recommended the following (Item 7(j), GIC Report 22-006):

“WHEREAS, passengers of the Disabled and Aged Regional Transportation Service (DARTS) are persons with disabilities and may not have the ability to utilize public transit or have the finances to use a taxi service;

WHEREAS, a person with a disability may not have or want a companion to provide assistance or wishes to be independent and be able to shop when they wish to;

WHEREAS, accessible transportation services have an obligation to provide services that accommodate the disabilities of their passengers, which may necessitate assistance, to allow persons with disabilities to participate within the community as would all individuals, regardless of ability; and,

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**SUBJECT: Accessible Transportation Services and the Disabled and Aged
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WHEREAS, all people need to shop, purchase and transport their purchases to their place of destination.

THEREFORE, BE IT RESOLVED:

That staff be directed to review the Accessible Transportation Services and the Disabled and Aged Regional Transportation Service policy to allow DARTS drivers to assist passengers who use a bundle buggy to safely load on and off the Accessible Transportation vehicle, and report back to the Public Works Committee.”

INFORMATION

Customer-facing policies for accessible transportation services are currently set by the contractor, the Disabled and Aged Regional Transportation Service (DARTS) for their own vehicles and those of their subcontractor(s). In due course, Accessible Transportation Services (ATS) will migrate these into City policies to which any contractor(s) or subcontractor(s) will comply. In the interim, ATS has reviewed the existing DARTS policy respecting passengers travelling with carry-on personal items and its own draft policy.

The DARTS policies governing carry-on items were last updated in December 2020 to increase the number of bags a passenger may carry on board from two (2) to four (4). The policy amendments did not change the fact that passengers must manage their own carry-on items (shopping bags, packages, or parcels), including bundle buggies (or wheelie carts). The December 2020 increase to the passenger parcel/ bag limit was presented to the ACPD and received at their meeting on November 10, 2020 (Item 5(d)(ii) ACPD Report 20-006).

In anticipation of the future migration of DARTS’ customer-facing policies to City policies, ATS drafted a policy governing passenger carry-on items, including bundle buggies. The policy substantially aligns with the existing DARTS policy. The proposed ATS carry-on items policy summary was presented to the ACPD and received at their meeting on December 14, 2021 (Item 1(f)(i) ACPD Report 21-013).

The existing DARTS and draft ATS carry-on items policies are intended to:

- meet the requirements under the Accessibility for Ontarians with Disabilities Act (AODA);
- manage client expectations on the level of service provided;
- support vehicle Operator health and safety;
- support passenger health and safety; and

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- support vehicle Operators to adhere to scheduled trip times by ensuring vehicle Operator tasks do not expand beyond providing door-to-door transportation to individual ATS clients according to the schedule provided.

The draft ATS policy is slated for implementation in the future, once ATS has had an opportunity to review existing customer-facing policies.

The Accessibility for Ontarians with Disabilities Act (AODA) Integrated Accessibility Standards (O. Reg 191/11) outlines the requirements for specialized transit services that include the following areas:

- accessibility equipment and accessibility training (Sections 34-36);
- emergency preparedness and response (Section 37);
- fares and support persons (Section 38);
- accessibility plans (Sections 41-43); and
- categories of eligibility, application process, fares, visitors, origin to destination service, service coordination within contiguous urban areas, hours of service, booking, trip restrictions, service delays, companions and children (Sections 63-74).

The legislation requires that the vehicle operator properly secure the passenger and any mobility device required by the passenger; however, the legislation does not require that a passenger receive assistance with personal items of any kind on either conventional or specialized transit services. The legislation specifically provides that persons may travel with a travel attendant or support person to provide any personal assistance which may be required. Travel attendants or support persons are not charged a fare. Therefore, both the existing DARTS and draft ATS policies meet the legislative requirement.

There is an outstanding application to the Human Rights Tribunal of Ontario (HRT) regarding this policy. Any updates on the status of the file will be provided at a future date through the office of the City Solicitor.

Neither policy provides for driver assistance with client's personal items for reasons including the employment relationship and the nature of the scheduled service. Through contacts with other transit agencies, it was determined the policies are substantially aligned with service levels offered elsewhere.

Contractor Employees

DARTS Operators are responsible for providing door-to-door service to clients with proper securement of the client and their mobility device and in accordance with the

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provided schedule. DARTS and its subcontractors employ the Operators; the Operator's job description does not require them to assist with the loading and unloading of any passenger carry-on items. On specialized transit, some passengers have a "do not leave unattended" designation which requires additional vigilance from Operators and therefore adds to Operator responsibilities. DARTS raised concerns about the challenges Operators would face balancing the primary safety of passengers against other duties such as loading and unloading carry-on items. Further, they also expressed concerns about increased on the job injuries which may be sustained while assisting with carry-on items. As DARTS is the employer, they are responsible for job descriptions and any applicable collective agreements which may govern their employment relationships. Since the City does not control the DARTS employment relationship, ATS cannot instruct DARTS to unilaterally change the Operator job description.

For both specialized services which are contracted out and conventional accessible transit service provided by City employees of the HSR, Operators' primary responsibilities are safe operation of the vehicle and proper/safe securement of the passengers and their mobility devices on board, and do not include assisting passengers with carry-on items of any kind.

Scheduling Impact

An expectation for Operator assistance with passenger carry-on items and/or bundle buggies introduces an element of uncertainty to boarding time. The Operator may have to take longer than scheduled in order to assist with loading and unloading carry-on items on a trip, causing delays to the entire DARTS schedule. ATS clients may be travelling to places where on-time performance is paramount: e.g., to critical medical care like dialysis, to work, to school, to a transfer point along a longer journey, to day programs where caregivers are counting on a predictable pick-up time because they must go to work, etc. Delays can cause significant inconvenience or hardship for these ATS clients. Furthermore, delays lessen flexibility of specialized transit to provide same day service.

Increased boarding time because of Operators mandated to assist with passenger carry-on items would impact the total number of trips delivered per revenue hour, resulting in a higher cost per trip. In 2019 (using pre-COVID ridership levels), the number of eligible passenger trips per revenue hour was 2.18, lower than the 2.82 average of peers surveyed as part of benchmarking by Dillon Consulting in 2021 (Appendix "A" to Report PW21055) and lower than the average of 2.63 trips per hour reported in 2016 for an agency serving a population the size of Hamilton (Canadian Urban Transit Association/ WSP Parsons Brinckerhoff, Specialized Transit Services Industry Practices Review, 2016). Given that a higher number of trips per hour is always

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preferable, this could create conditions for undesirable service restrictions, resulting in a lower level of available trips.

Allowing Operators to assist with passenger carry-on items at their discretion will result in uneven application of the policy and create service inconsistencies for passengers if an Operator is unable or unwilling to assist with carry-on items and/or bundle buggies. A clear policy ensures the same treatment for everyone. Consistent with DARTS, HSR Operators are also not required to assist passengers with personal items. Changing policy language to something permissive such as “drivers are allowed to assist, should they choose”, would create inconsistencies in service standards and conflict between passengers and Operators and is not recommended.

Peer Agency Scan

In consideration of the motion and while reviewing the policies, a peer agency scan was conducted by contacting similar sized specialized transit agencies in Ontario and reviewing posted policies on websites. Most agencies have policies which require Operator securement, but not personal assistance with carry-on items. The reasons given for not allowing assistance with passenger carry-on items or bundle buggies were the same from each transit agency: job description/collective bargaining agreement, impact on boarding time and/or schedule adherence, and liability concerns arising from damage or theft. However, the primary concern reported for both passenger carry-on items and bundle buggies is the health and safety of the Operator and passengers.

Based on the above, existing practices in Hamilton are aligned with peer agencies.


As both the DARTS and ATS policies have been reviewed and no changes are required as the existing policies meet the legislative requirements under the AODA.

APPENDICES AND SCHEDULES ATTACHED

N/A



CITY OF HAMILTON
PUBLIC WORKS DEPARTMENT
Engineering Services Division

TO:	Chair and Members Public Works Committee
COMMITTEE DATE:	February 13, 2023
SUBJECT/REPORT NO:	Appropriation Transfer of Funds for Kenilworth Transmission Watermain Renewal (PW23010) (Ward 4 and Ward 6)
WARD(S) AFFECTED:	Ward 4 and Ward 6
PREPARED BY:	Harry Krinas (905) 546-2424 Ext. 7180
SUBMITTED BY:	Jackie Kennedy Director, Engineering Services Division Public Works Department
SIGNATURE:	

RECOMMENDATIONS

- (a) That Council approve the award of Request for Proposals Contractor Required for the Rehabilitation of the Kenilworth Trunk Watermain, pursuant to Procurement Policy #5.4 Request for Proposals, to Clearway Construction Inc. in the amount of \$5,090,699.89 (not including Contingency and Non-Refundable HST), and that the General Manager, Public Works Department be authorized to negotiate, enter into and execute any required Contract and any ancillary documents required to give effect thereto with Clearway Construction Inc., in a form satisfactory to the City Solicitor; and
- (b) That the budget and financing plan for the Kenilworth Transmission Watermain Renewal (Project ID 5141760754), totalling \$3,500,000, be amended and approved, by an increase of \$2,484,000, to be funded by a transfer from Waterworks Capital Reserve (#108015).

EXECUTIVE SUMMARY

The Kenilworth 1050mm diameter steel watermain was built in 1959-1960. This 500m long watermain was built inside a tunnel with a vertical and horizontal portion into the escarpment. This watermain is classified as a critical component to the water distribution network and is one of only two feeds servicing the Hamilton mountain area.

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**SUBJECT: Appropriation Transfer of Funds for Kenilworth Transmission
Watermain Renewal (PW23010) (Ward 4 and Ward 6) - Page 2 of 5**

The structural integrity of this in-tunnel watermain has been compromised due to external steel corrosion and requires rehabilitation. There are currently two (2) localized corrosion locations that require immediate attention.

C13-10-22 – Proposal for Contractor Required for the Rehabilitation of the Kenilworth Truck Watermain was issued in 2022 as a request for proposal (RFP) with the intent to award the contract in 2022 and perform the required rehabilitation work from January to April of 2023. The Contract was not awarded due to a significant shortage of estimated and budgeted funds compared to the bid received (\$2,955,850.85 available budget vs \$4,690,699.89 total contract price).

The above amounts do not include contingency and non-recoverable HST, and the additional \$400,000 now required for extra works as described in historical background following negotiations with the contractor.

In accordance with the City's Procurement Policy, staff entered into negotiations with Clearway Construction Inc. in January of 2023 to explore options for undertaking both the urgent repair work now, and for performing the entirety of the Contract at a later date (January to April of 2024). The two-phase approach was negotiated with the contractor and is recommended in order to meet schedule restrictions arising from water distribution seasonal demands, and to minimize the risk of catastrophic failure.

The Contract involves:

- Supply of temporary rental power generators to reduce the risk of service interruptions to water distribution during a power outage. Power generators will be supplied for both the urgent repairs, and during the later contract works;
- Cleaning and preparation of watermain surfaces; and
- Structural rehabilitation by installing specially designed glass fiber reinforced polymer (GFRP) composite, applied both longitudinally and circumferentially to the watermain, restoring the structural integrity of the watermain back to its intended design parameters.

Alternatives for Consideration – see Page 4

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: The total required increase to the Kenilworth Transmission Watermain Renewal project is \$2,484,000. The increased cost can be funded by a transfer from the Waterworks Capital Reserve (#108015).

**SUBJECT: Appropriation Transfer of Funds for Kenilworth Transmission
Watermain Renewal (PW23010) (Ward 4 and Ward 6) - Page 3 of 5**

Staffing: N/A

Legal: N/A

HISTORICAL BACKGROUND

A condition assessment report was completed by Stantec Consulting Limited in 2017. The assessment report also included a review of previous inspections performed, over the past five years prior to 2017, three (3) ultrasonic-based surveys of the horizontal section and one (1) survey of the vertical section. The 2017 inspection had identified two pipe locations with localized corrosion, and issues related to the humidity levels inside the tunnel where the watermain is installed.

Two emergency repairs using glass reinforced polymer were undertaken in 2017. Ventilation and dehumidification systems were also installed in 2018 to reduce the corrosion inducing environment within the tunnel.

In 2020 a Request for Tender (RFT) (C13-16-20) was issued in order to rehabilitate the entire watermain using glass fibre reinforced Polymer (GFRP). There was only one bid received in response to the RFT. The contract was not awarded as the bid price was over budget (budget \$2,000,000, total bid cost \$5,603,662.47).

The current RFP, C13-10-22, closed October 19, 2022 and two proposals were received and evaluated against the criteria stated in the RFP. Costing Proposals were opened, and Clearway Construction Inc was determined to be the preferred proponent. In accordance with the Procurement Policy #5.4 Request for Proposals, Section (8), the City initiated negotiations with the Clearway Construction Inc. on January 5, 2022 at which time options to reducing costs and the timing of urgent and non-urgent works were discussed.

During negotiations Clearway Construction Inc. discussed alternative options in order to reduce costs. These included changes to material suppliers and products, changes to subcontractors initially proposed, and the removal of provisional items. It was staff's opinion that such changes would compromise the quality and scope of the contract and were therefore not discussed or explored further.

Alternatively, Clearway Construction Inc. is in a position to undertake both urgent (2023) and non-urgent works (2024) as a two (2) phase approach with the additional costs associated.

Clearway Construction Inc. will require an additional \$400,000 (does not including contingency and non-recoverable HST) to complete the works contemplated in the original RFP over available portions of 2023 and 2024 (as opposed to 2023 only).

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The additional costs comprise the following:

- Extension of Surety, Insurance and Finance costs;
- Escalation of the cost of labour, driven by a collectively-bargained increase in labour cost of ~\$4 per person-hour between 2023 and 2024;
- Escalation of commodity pricing, most notably oil, aluminium and steel;
- Increase in costs to hire Owner-Operator based haulers for the purposes of earth moving and site investigation (also commodity driven);
- Increase in costs roughly delineated by the City-mandated FRP supplier/installer; and
- Additional mobilizations for both Clearway Construction Inc. and their subcontractors, including generator sets (rented through a third party)

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

The RFP and the subsequent negotiations were carried out in accordance with By-law 20-205 as amended, the City's Procurement Policy, Section 4.5.4.

RELEVANT CONSULTATION

The project consultations include the consultation with Hamilton Water – Plant Operations, Hamilton Water – Water Distribution, Corporate Services – Procurement, and Corporate Services – Budgets and Financial Policy.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

The department of Public Works, Engineering Services Division and Corporate Services – Budgets, provide funding source recommendations in order to allow for the award and completion of Kenilworth Transmission Watermain Rehabilitation (C13-10-22).

Given the uncertainty of future costs, future availability of resources in the industry, and the current structural condition of the Kenilworth Transmission Watermain, it is recommended to allow the award and completion of this project.

ALTERNATIVES FOR CONSIDERATION

Alternatively, the City can re-issue a competitive procurement process for a contractor to undertake the project at a later year after additional funds have been budgeted and approved. The urgent repairs would need to be completed by end of April 2023 through the use of other purchasing policies such as Policy 11 Non-Competitive Procurements or Policy 10 Emergency Procurements. The estimated cost for those repairs can range

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from \$75,000 to \$250,000. There are risks associated with availability of industry resources to complete the urgent works.

Re-tendering poses risks related to the uncertainty of cost of materials and the availability of specialised resources in the industry.

Re-tendering the project may also be perceived as bid shopping by the industry since this project was issued in 2020 as a RFT and in 2022 as a RFP.

Financial: N/A

Staffing: N/A

Legal: N/A

ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN

Economic Prosperity and Growth

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

Healthy and Safe Communities

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

Built Environment and Infrastructure

Hamilton is supported by state-of-the-art infrastructure, transportation options, buildings and public spaces that create a dynamic City.

APPENDICES AND SCHEDULES ATTACHED

N/A

12.1

CITY OF HAMILTON

MOTION

Public Works Committee: February 13, 2023

MOVED BY COUNCILLOR T. JACKSON.....

SECONDED BY COUNCILLOR M. SPADAFORA.....

Removal of the City-Owned Tree Located at 1415 Trinity Church Road, Hamilton (Ward 11)

WHEREAS, the owner of 1415 Trinity Church Road, Hamilton, indicates they experience sightline concerns and impediments to deliveries safely entering and exiting their property from the large City-owned tree located at their property;

WHEREAS, the owner of 1415 Trinity Church Road has expressed their desire to the Ward Councillor and has previously appealed to Forestry staff to have the City-owned tree removed.

THEREFORE, BE IT RESOLVED:

- (a) That Forestry staff be directed to remove the City-owned tree located at 1415 Trinity Church Road, Hamilton; and
- (b) That Forestry staff be directed to waive all tree removal permit and loss of canopy fees for the removal of the City-owned tree located at 1415 Trinity Church Road, Hamilton, and to fund the tree removal costs through the Forestry section operating budget.

12.2

CITY OF HAMILTON

MOTION

Public Works Committee: February 13, 2023

MOVED BY COUNCILLOR J.P. DANKO.....

SECONDED BY COUNCILLOR

Investment in Trieste Bocce Club, 60 DiCenzo Drive, Hamilton (Ward 8)

WHEREAS, the majority of City of Hamilton owned facilities and park assets (buildings) in Ward 8 are maintained by the City’s Facilities Operations & Maintenance Section of the Energy, Fleet & Facilities Management Division, Public Works Department;

WHEREAS, the members of the Trieste Bocce Club, located at 60 DiCenzo Drive, Hamilton, are requesting rolling door options to provide a more sheltered environment against the cold and rain and to extend the bocce playing season; and

WHEREAS, potential issues identified including structural concerns with the building due to increased dead and live loads from rolling door such as Fire and Life Safety, ingress and egress of the property, *Accessibility for Ontarians with Disabilities Act* (AODA) requirements, air flow and Heating, Ventilation and Air conditioning (HVAC) requirements.

THEREFORE, BE IT RESOLVED:

- (a) That staff be authorized and directed to retain professional services to determine the feasibility of enclosing the Trieste Bocce Club, located at 60 DiCenzo Drive, Hamilton, with rolling doors, to be funded from the Ward 8 Area Rating Reserve Account (108058) to an upset limit of \$2,500;
- (b) That the Ward 8 Area Rating Reserve Account (108058) be used as required, to an upset limit of \$25,000, to fund the investigation of options to determine next steps (design options, entrance & exits, overhead lighting, HVAC systems, construction cost estimation etc.) for the Trieste Bocce Club, located at 60 DiCenzo Drive, Hamilton; and
- (c) That the Mayor and City Clerk be authorized and directed to execute any required agreement(s) and ancillary documents to retain professional services

to investigate options and next steps respecting the Trieste Bocce Club, located at 60 DiCenzo Drive, Hamilton, with such terms and conditions in a form satisfactory to the City Solicitor .