


Hamilton

**CITY OF HAMILTON**  
**PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT**  
**General Manager's Office**

<b>TO:</b>	Chair and Members West Harbour Development Sub-Committee
<b>COMMITTEE DATE:</b>	February 26, 2019
<b>SUBJECT/REPORT NO:</b>	Macassa Bay Year-Round Liveaboard Association 2018/2019 Transition Plan (PED18222(b)) (Ward 2)
<b>WARD(S) AFFECTED:</b>	Ward 2
<b>PREPARED BY:</b>	Chris Phillips (905) 546-2424 Ext. 5304
<b>SUBMITTED BY:</b>	Jason Thorne General Manager Planning and Economic Development Department
<b>SIGNATURE:</b>	

**RECOMMENDATION(S)**

- (a) That Council authorize the General Manager of the Planning and Economic Development Department to execute, on behalf of the City of Hamilton, an agreement with the Macassa Bay Yacht Club (MBYC) whereby the Macassa Bay Yacht Club (MBYC) permits the mooring of up to 15 boats owned by members of the Macassa Bay Year-Round Liveaboard Association (LAA) to reside at the Macassa Bay Yacht Club (MBYC) for the 2018/19 winter season in a form satisfactory to the City Solicitor;
- (b) That Council authorize the General Manager of the Planning and Economic Development Department to execute, on behalf of the City of Hamilton, an agreement with each member of the Macassa Bay Year-Round Liveaboard Association (each a "Liveaboard") who resides at the Macassa Bay Yacht Club (MBYC) with the Macassa Bay Yacht Club's (MBYC's) consent for the 2018/2019 winter season in a form satisfactory to the City Solicitor.

**EXECUTIVE SUMMARY**

Upon receiving Report PED18222 on July 13, 2018, Council provided the following direction:

- (a) Planning staff was directed to meet with the delegation from the Macassa Bay Year-Round Liveaboard Association (LAA) and their representatives to discuss an accommodation plan for the 2018/2019 winter season within the parameters of the existing zoning and other City by-laws.

Those discussions have now resulted in a tri-party Accommodation Plan whereby the Macassa Bay Yacht Club (MBYC) has agreed, based on certain assurances provided by the City, to permit up to 15 members of the LAA to reside at the MBYC for the 2018/19 winter season.

The purpose of this Report is to provide details of this Accommodation Plan and to seek Council approval to enter into:

1. An agreement with the MBYC permitting the City to use its docks and slips for the purpose of providing accommodations to up to 15 LAA members (each a "Liveaboard") through the winter of 2018/19; and,
2. Individual agreements with each Liveaboard permitting each to reside at the MBYC through the winter of 2018/19.

#### **Alternatives for Consideration – Not Applicable**

#### **FINANCIAL – STAFFING – LEGAL IMPLICATIONS**

##### **Financial:**

The financial implications of this tri-party Accommodation Plan are relatively modest. Electrical upgrades of approximately \$25K were required to accommodate higher electricity demands of boats in the winter. These upgrades, however, were already anticipated within the capital budget forecasts, as they would be required as part of the shoreline rehabilitation and public boardwalk projects proposed within the West Harbour Waterfront Recreation Master Plan (WHWRMP). Therefore, approved Capital Account – Project ID 4411806103 Macassa Bay Boardwalk and Trail, was identified as the funding source.

The City will be responsible for the payment of the MBYC slip fees and ancillary costs relating to the LAA's stay over the winter. Likewise, the City's agreement with each individual Liveaboard requires them to pay a calculated monthly fee to the City which covers their stay at the MBYC until April 30, 2019, at which time each Liveaboard will be responsible for making their own accommodation arrangements.

**Staffing:**

Some productive staff time of the existing complement has been expended in creating the Accommodation Plan and negotiating the associated Agreements. Further time will be expended in administrating these Agreements and the associated payments but this activity is forecast to conclude in May, 2019.

**Legal:**

The City's Legal Services Division has supported the creation of the Accommodation Plan including, in particular, drafting the associated Agreements.

**HISTORICAL BACKGROUND**

In 2017, as part of the implementation of the WHWRMP, staff initiated the relocation of the Hamilton Police Services Marine Unit from its existing facilities on Pier 7 to a site that was occupied by Scott-MacDonald Limited. Known as MacDonald Marine, the company operated a marina within the Macassa Bay area with a lease granted by the City which was set to expire on May 31, 2018. As part of this process, both MacDonald Marine and the public were formally notified of the City's decision not to renew the lease upon its expiry date and, subsequently, staff embarked on negotiations with the leaseholder to allow for the orderly wind-down of the business on the site.

In early 2018, the City was informed that that up to 20 boat owners – so-called "Liveaboards", have been permanently living on their boats at this location year-round without the City's permission. It was also determined that some have been doing so for over 20 years, even though the City's lease with the marina operators did not permit or prohibit this activity. City staff permitted a number of these boaters to remain on-site after the lease expiry on the understanding that each would actively pursue relocation.

Subsequent to hearing a delegation from the LAA, on July 13, 2018, Council approved Planning Committee Report 18-011 including the following direction:

- (a) Planning staff was directed to meet with the delegation from the LAA and their representatives to discuss an accommodation plan for the 2018/2019 winter season within the parameters of the existing zoning and other City by-laws;
- (b) Staff is to report back at the August 14, 2018 meeting with an outline of the existing rules regarding the proposal for live-aboard boat residency; and,
- (c) Staff is to provide an update to the Planning Committee in September 2018 regarding the result of the negotiations with the representatives of the LAA.

On August 14, 2018, Planning Committee received confidential Report LS18048

respecting item (b) and on September 18, 2018, Planning Committee received Report PED18222 with regards to items (a) and (c) which provided a status update to Council about staff's ongoing negotiations with the members representing the LAA pertaining to an accommodation plan for the 2018/2019 winter season.

## **POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS – Not Applicable**

## **RELEVANT CONSULTATION**

The development of the Accommodation Plan involved discussion with the three active marina operators along the waterfront about their interest and ability to accommodate the Liveaboards through the winter of 2018/19: the MBYC; the Royal Hamilton Yacht; and, the Harbour West Marina (managed by the Hamilton Port Authority).

Internally, staff corresponded with Legal Services and Risk Management on aspects of the Plan relating to liability to the City, individual boaters and the marina operator including special insurance requirements, and the risk to the City of claims arising from unforeseen events (accidents, injury, and weather-related claims).

## **ANALYSIS AND RATIONALE FOR RECOMMENDATION**

As indicated above, City staff was directed to develop an Accommodation Plan in consultation with the LAA that would allow LAA members to remain living on their boats for the 2018/2019 winter season. Through on-going dialogue with the LAA and the MBYC, City staff is now finalizing the Accommodation Plan and associated Agreements which includes moving eligible Liveaboards to MBYC premises, clarifying the obligations of each involved party (LAA, MBYC and the City), confirming fee structures to compensate the MBYC for use of its facilities and to permit each eligible Liveaboard to reside at the MBYC.

As the specifics of the Accommodation Plan were not then known, earlier reports and Council's prior directions did not explicitly grant staff the authority to execute these Agreements. Accordingly, the Recommendations outlined in this Report PED18222(b) are presented to Council seeking the authority to formally conclude these Agreements.

## **ALTERNATIVES FOR CONSIDERATION**

There are no alternatives presented for consideration in this Report as the options for alternative accommodation in the available time-frames were limited. That said, staff did discuss the feasibility of housing LAA members at the Royal Hamilton Yacht Club and the Harbour West Marina but concluded that the cost of implementation favoured the MBYC. Reasons included: more affordable slip fees being; no throw away costs required to upfit the docks for winter use; and, proximity to the former MacDonald

Marine site, parking and storage space for equipment was already existing and available for LAA use.

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

**Community Engagement and Participation**

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

**Healthy and Safe Communities**

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

**APPENDICES AND SCHEDULES ATTACHED – Not Applicable**

CP:cb