



GENERAL ISSUES COMMITTEE REPORT 19-008

9:30 a.m.

Wednesday, April 17, 2019

Council Chambers

Hamilton City Hall

71 Main Street West

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

Absent: Councillor B. Johnson, C. Collins – Other City Business
Councillor E. Pauls - Personal

THE GENERAL ISSUES COMMITTEE PRESENTS REPORT 19-008 AND RESPECTFULLY RECOMMENDS:

1. Labour Relations Activity Report (2014 - 2018) (HUR19007) (City Wide) (Item 10.1)

That Report HUR19007, respecting the Labour Relations Activity Report (2014 - 2018), be received.

2. 2018 Municipal Tax Competitiveness Study (FCS19023) (City Wide) (Item 10.2)

That Report FCS19023, respecting the 2018 Municipal Tax Competitiveness Study, be received.

3. Office Tenancy Assistance Program - 286 Sanford Avenue North, 2nd Floor, Hamilton (PED19020) (Ward 3) (Item 10.3)

- (a) That a conditional loan commitment totalling \$250K for 2580922 Ontario Inc. (Meir Dick and Ray Hutton) the owner of the subject property leasing office space at 286 Sanford Avenue North, 2nd Floor, Hamilton, be

authorized and approved under the Office Tenancy Assistance Program in accordance with the Program's terms and conditions;

- (b) That the Mayor and City Clerk be authorized and directed to execute the Loan agreement together with any ancillary documentation required, to give effect to the conditional loan commitment totalling \$250K for 2580922 Ontario Inc. (Meir Dick and Ray Hutton) the owner of the subject property leasing office space at 286 Sanford Avenue North, 2nd Floor, Hamilton, in a form satisfactory to the City Solicitor; and,
- (c) That the General Manager of the Planning and Economic Development Department be authorized to approve and execute any loan amending agreements together with any ancillary amending documentation, if required, provided that the terms and conditions of the Office Tenancy Assistance Program, as approved by City Council, are maintained.

4. Office Tenancy Assistance Program - 286 Sanford Avenue North, 3rd Floor, Hamilton (PED19021) (Ward 3) (Item 10.4)

- (a) That a conditional loan commitment totalling \$250K for 2580922 Ontario Inc. (Meir Dick and Ray Hutton) the owner of the subject property leasing office space at 286 Sanford Avenue North, 3rd Floor, Hamilton, be authorized and approved under the Office Tenancy Assistance Program in accordance with the Program's terms and conditions;
- (b) That the Mayor and City Clerk be authorized and directed to execute the Loan agreement together with any ancillary documentation required, to give effect to the conditional loan commitment totalling \$250K for 2580922 Ontario Inc. (Meir Dick and Ray Hutton) the owner of the subject property leasing office space at 286 Sanford Avenue North, 3rd Floor, Hamilton, in a form satisfactory to the City Solicitor; and,
- (c) That the General Manager of the Planning and Economic Development Department be authorized to approve and execute any loan amending agreements, together with any ancillary amending documentation, if required, provided that the terms and conditions of the Office Tenancy Assistance Program, as approved by City Council, are maintained.

5. Airport Sub-Committee Report 19-002, March 29, 2019 (Item 10.5)

(a) Appointment of Chair and Vice-Chair (Item 1.1)

That Councillors L. Ferguson and B. Johnson be appointed as Co-Chairs of the Airport Sub-Committee on a rotating basis for the 2018-2022 term.

- (b) **Annual Auditor's Report on the Annual Schedule of Percentage Rent Computation regarding the John C. Munro Hamilton International Airport (PED19082) (City Wide) (Item 7.1)**

That Report PED19082, respecting the Annual Auditor's Report on the Annual Schedule of Percentage Rent Computation regarding the John C. Munro Hamilton International Airport, be received.

- (c) **2019 - 2020 John C. Munro Hamilton International Airport (HIA) - City of Hamilton Joint Marketing Initiatives (PED19086) (City Wide) (Item 10.1)**

That the City of Hamilton approve and allocate \$100,000 from the Airport Joint Marketing Reserve Fund No. 112217 as the City's contribution to the 2019-2020 John C. Munro Hamilton International Airport (HIA) – City of Hamilton Joint Marketing Initiatives, as outlined in Report PED19086.

- (d) **2019 - 2030 Capital Expenditure Request for John C. Munro Hamilton International Airport (HIA) (PED19083) (City Wide) (Item 14.1)**

That the contents of Report PED19083, respecting the 2019 - 2030 Capital Expenditure Request for John C. Munro Hamilton International Airport (HIA), including recommendations remain confidential, until final execution of the pending agreement.

- (e) **Tradeport / City Lease Negotiation Information Report (PED19084) (City Wide) (Item 14.2)**

That Report PED19084, respecting Tradeport / City Lease Negotiation Information Report, be received and remain confidential.

6. **Annual Assessment Appeals as of December 31, 2018 (FCS19030) (City Wide) (Item 10.6)**

That Report FCS19030, respecting the Annual Assessment Appeals as of December 31, 2018, be received.

7. Annual Tax Arrears as of December 31, 2018 (FCS19031) (City Wide) (Item 10.7)

That Report FCS19031, respecting the Annual Tax Arrears as of December 31, 2018, be received.

8. 2019 Tax Policies and Area Rating (FCS19022) (City Wide) (Item 10.8)

(a) That the following optional property classes be continued for the 2019 taxation year:

- (i) Parking Lot and Vacant Land; and,
- (ii) Large Industrial.

(b) That, based on the 2019 final approved Tax Operating Budget, the following final tax ratios be established for the 2019 taxation year:

(i)	Residential	1.0000
(ii)	Multi-Residential	2.5671
(iii)	New Multi-Residential	1.0000
(iv)	Commercial	1.9800
(v)	Parking Lot and Vacant Land	1.9800
(vi)	Industrial	3.3696
(vii)	Large Industrial	3.9513
(viii)	Pipeline	1.7947
(ix)	Farm	0.1767
(x)	Managed Forest	0.2500
(xi)	Landfills	2.9696

(c) That the following tax reductions be established for the 2019 taxation year:

(i)	Excess Land Subclass (Residual Commercial)	30%
(ii)	Excess land Subclass (Residual Industrial)	30%
(iii)	Vacant land Subclass (Residual Industrial)	30%
(iv)	Excess land Subclass (Large Industrial)	30%
(v)	Farmland awaiting development (1 st Subclass)	25%
(vi)	Farmland awaiting development (2 nd Subclass)	0%

(d) That the existing Seniors' (65+) Tax Rebate Program be continued for the 2019 taxation year;

- (e) That the Deferral of Tax Increases for Seniors and Low-Income Persons with Disabilities Program (Deferral of Tax Increases Program) be continued for the 2019 taxation year;
- (f) That the Full Tax Deferral Program for Seniors and Low-Income Persons with Disabilities Program (Full Tax Deferral Program) be continued for the 2019 taxation year as the second year of the three-year pilot;
- (g) That the existing 40% Tax Rebate for eligible charities and similar organizations be continued for the 2019 taxation year;
- (h) That the existing Tax Rebate for eligible charities and similar organizations be amended to include a 100% tax rebate for Veteran's Clubhouses and Legion Halls, which use and occupy land as a memorial home, clubhouse or athletic grounds and would otherwise be tax exempt under Section 3(1) of the *Assessment Act, R.S.O. 1990, c. A.31*;
- (i) That the City of Hamilton By-law 12-116 to provide property tax rebates for Veteran's Clubhouses and Legion Halls occupying property in the City of Hamilton be repealed as they are now exempt;
- (j) That, for the 2019 taxation year, the tax capping percentage for any assessment-related tax increases in the Commercial and Industrial property classes be set at the maximum allowable of 10% of previous year's Current Value Assessment (CVA) level taxes;
- (k) That, for the 2019 taxation year, any capped property in the Commercial and Industrial property classes that is within \$500 of its Current Value Assessment (CVA) taxes in 2019, be moved directly to its full Current Value Assessment (CVA) taxes;
- (l) That capping protection will be limited only to reassessment related changes prior to 2017;
- (m) That the four-year capping phase-out option be continued for the Commercial property class with 2019 being year 2 of 4;
- (n) That, if conditions are met pending release of the education tax rate, the four-year capping phase-out option be started for the Industrial property class;
- (o) That vacant lands that are currently subject to capping protection be excluded from the phase-out eligibility criteria where all properties must be within 50% of CVA level taxes;

- (p) That, for the 2019 taxation year, the minimum percentage of Current Value Assessment (CVA) taxes for properties eligible for the new construction / new to class treatment be set at 100% of Current Value Assessment (CVA) taxes;
- (q) That for the 2019 taxation year, any property in the Commercial and Industrial property class, which paid full Current Value Assessment (CVA) taxes in 2018, no longer be eligible for capping protection in 2019 and future years;
- (r) That, for the 2019 taxation year, all properties eligible for a tax reduction under the existing capping program receive the full decrease, funded from the approved capping program operating budget;
- (s) That, for the 2019 taxation year, the Area Rated Levies be approved as identified in Appendix "A" attached to Report 19-008;
- (t) That Schedule "C" of the City of Hamilton By-law 18-131 be amended to reflect the provincially prescribed Education tax rate for the small-scale on-farm business subclasses;
- (u) That the City Solicitor & Corporate Counsel be authorized and directed to prepare all necessary by-laws, for Council approval, for the purposes of establishing the tax policies and tax rates for the 2019 taxation year.

9. Open for Business Sub-Committee Report 19-001, February 27, 2019 (Item 10.9)

(a) Appointment of Chair and Vice Chair (Item 1)

- (i) That Councillor M. Pearson be appointed Chair of the Open for Business Sub-Committee for the 2018-2022 term; and
- (ii) That Councillor J. Farr be appointed Vice-Chair of the Open for Business Sub-Committee for the 2018-2022 term.

(b) Continuous Improvement Team - Process Review - Micro-breweries - Case Study No. 20 (Item 7.1)

That the Continuous Improvement Team - Process Review - Micro-breweries - Case Study No. 20, be received.

(c) Continuous Improvement Team - 2018 Special Occasion Permit Review – Case Study No. 21 (Item 7.2)

That the Continuous Improvement Team - 2018 Special Occasion Permit Review – Case Study No. 21, be received.

(d) Open for Business Future Ready Leadership Program (PED19058) (City Wide) (Item 7.3)

That Report PED19058 respecting the Open for Business Future Ready Leadership Program, be received.

(e) 2019 ePLANS Launch - Online Building Permit Submissions - Case Study No. 22 (Added Item 7.4)

That the 2019 ePLANS Launch - Online Building Permit Submissions - Case Study No. 22, be received.

(f) Rural Development and Sustainable Private Servicing (PED18191) (Wards 9, 11, 12, 14, 15) (Item 9.1)

That Report PED18191, respecting Rural Development and Sustainable Private Servicing, be received.

(g) Continuous Improvement Process Review - Transportation Reviews for Development Case Study No. 19 (Item 9.2)

That the Continuous Improvement Process Review - Transportation Reviews for Development Case Study No. 19, be received.

10. Advisory Committee for Persons with Disabilities Report 19-002, March 12, 2019 (Item 10.10)

- (a) That sub-section (a) to the Advisory Committee for Persons with Disabilities Report 19-002, respecting Hamilton Street Railway Bus Transfers, which reads as follows, be referred to staff for a report back to the Public Works Committee:

(a) Hamilton Street Railway Bus Transfers (Item 11.1)

WHEREAS, Accessibility for Ontarians with Disabilities Act (AODA) Standards stress the need for equity of services on transit;

WHEREAS, those experiencing disabilities such as mobility challenges are frequently slow moving, requiring a longer time to reach bus stops, especially those mid-block and, similarly more time to complete tasks such as shopping and appointments;

WHEREAS, there is no actual financial costs to implement this practice; and,

WHEREAS, benefit may be gained from the goodwill and educational process that acknowledges diversity in ridership.

THEREFORE, BE IT RESOLVED:

That staff be directed to investigate the feasibility of the Hamilton Street Railway (HSR) extending the duration of the HSR bus transfers for persons with disabilities, including consultation with Advisory Committee for Persons with Disabilities on the process.

(b) City's Commitment to the Lives of Persons with Disabilities in the City of Hamilton (Added Item 11.2)

That the Mayor and Council be invited to attend and speak to the Advisory Committee for Persons with Disabilities respecting the City's commitment to the betterment of the lives of persons with disabilities in the City of Hamilton.

11. Interview Sub-Committee (to the General Issues Committee) Report 19-001, March 29, 2019 (Item 10.12)

(a) Appointment of Chair and Vice Chair (Item 1)

- (i) That Councillor B. Clark, be appointed as Chair of the Interview Sub-Committee (to the General Issues Committee) for the balance of the 2018 to 2022 term of Council; and,
- (ii) That Councillor J. Farr, be appointed as Vice Chair of the Interview Sub-Committee (to the General Issues Committee) for the balance of the 2018 to 2022 term of Council; and,

(b) Arts Advisory Commission Citizen Member Appointments (Item 4.1)

- (i) That the citizen appointments to the Arts Advisory Commission, as outlined in Private & Confidential Appendix “A” to Report 19-001, be approved for the balance 2018 to 2022 term of Council or until successors are appointed by Council;
- (ii) That, upon approval of Council, the names of the citizen appointments to the Arts Advisory Commission, as outlined in Private & Confidential Appendix “A” to Report 19-001 to the Interview Sub-Committee, be released to the public; and,
- (iii) That the Terms of Reference for the Arts Advisory Commission be amended, by changing the composition from “up to 8 members” to “up to 9 members”.

12. Judicial Investigation Red Hill Valley Parkway (LS19017) (City Wide) (Item 10.14)

- (a) That the Terms of Reference for the Judicial Investigation on the Red Hill Valley Parkway matter, attached as Appendix “B” to Report 19-008, be approved and be forwarded to the Chief Justice of the Superior Court;
- (b) That the City Manager be authorized and directed to take such actions and to execute such documents in a form satisfactory to the City Solicitor as required to give effect to Council’s decision to initiate a Judicial Investigation on the Red Hill Valley Parkway matter, including such actions required by the Justice presiding over the Investigation;
- (c) That the costs of the Judicial Investigation on the Red Hill Valley Parkway matter be paid from the Tax Stabilization Reserve (110046);
- (d) That staff provide regular status reports identifying the costs to date associated with the Judicial Investigation on the Red Hill Valley Parkway; and,
- (e) That the law firm of Lenczner Slaght Royce Smith Griffin LLP be appointed as legal counsel for the City of Hamilton for the Judicial Investigation on the Red Hill Valley Parkway.

13. Update respecting the Provinces Intention to Move from 52 Paramedic Services to 10 across the Province (Item 13.2)

That the update respecting the Provinces Intention to Move from 52 Paramedic Services to 10 across the Province, be received.

14. Disposition of Real Estate in the Barton-Tiffany Area (PED19063(a)) (Ward 2) (Item 14.3)

That the entirety of Report PED19063(a) remain confidential and not be released as a public document with the exception of the recommendations in this Report that may be released after the execution of the Memorandum of Understanding (MOU) for the media industry hub (Film & TV Studio District) in the Barton-Tiffany area.

15. Strathearne Avenue North Monitoring - Potential Regulatory Litigation (PW19036 / LS19016) (Ward 4) (Item 14.4)

That Report PW19036/LS19016, respecting Strathearne Avenue North Monitoring - Potential Regulatory Litigation, remain confidential.

FOR INFORMATION:

(a) CEREMONIAL ACTIVITIES

Mayor Eisenberger congratulated Debbie Edwards, Deputy City Solicitor, on her upcoming retirement and provided her with a certificate of appreciation on behalf of Council.

(b) APPROVAL OF AGENDA (Item 2)

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

1. DISCUSSION ITEMS (Item 10)

10.8 2019 Tax Policies and Area Rating (FCS19022) (City Wide)

Report FCS19022 has an added Appendix "C".

10.13 Downtown Entertainment Assets Operating Agreements
(CM18013(a)) (City Wide)

This report has been withdrawn from the agenda at this time.

As this item was withdrawn from the agenda, the matter will remain on the Outstanding Business List and not be removed under Item 13.1.

10.14 Judicial Investigation Red Hill Valley Parkway (LS19017) (City Wide)

As there will be external legal counsel present to speak to this matter, if need be, and in order to reduce legal costs, staff are requesting this matter be moved up on the agenda to be considered prior to Item 10.1.

2. GENERAL INFORMATION / OTHER BUSINESS (Item 13)

13.2 Update respecting the Province's Intention to Move from 52 Paramedic Services to 10 across the Province (no copy)

3. PRIVATE & CONFIDENTIAL (Item 14)

14.4 Strathearne Avenue North Monitoring - Potential Regulatory Litigation (PW19036 / LS19016) (Ward 4)

Pursuant to Section 8.1, Sub-sections (e) and (f) of the City's Procedural By-law 18-270, and Section 239(2), Sub-sections (e) and (f) of the *Ontario Municipal Act*, 2001, as amended, as the subject matter pertains to litigation or potential litigation, including matters before administrative tribunals, affecting the City; and, the receiving of advice that is subject to solicitor-client privilege, including communications necessary for that purpose.

The agenda for the April 17, 2019 General Issues Committee meeting, was approved, as amended.

(c) DECLARATIONS OF INTEREST (Item 2)

There were no declarations of interest.

(d) APPROVAL OF MINUTES OF THE PREVIOUS MEETINGS (Item 4)

(i) April 3, 2019 (Item 4.1)

The Minutes of the April 3, 2019 meeting of the General Issues Committee were approved, as presented.

(e) CONSENT ITEMS (Item 7)

(i) Arts Advisory Commission Minutes, November 27, 2018 (Item 7.1)

The the Arts Advisory Commission Minutes, November 27, 2018, were received.

(f) DISCUSSION ITEMS (Item 10)

(i) Navy League Licence Agreement-Barton Community Hub (PED19077) (Ward 2) (Item 10.11)

Consideration of Item 10.11, respecting Report PED19077 - Navy League Licence Agreement-Barton Community Hub, was deferred until after discussion of the Private & Confidential Appendix "B" to Report PED19077.

Report PED19077, respecting the Navy League Licence Agreement-Barton Community Hub, was DEFERRED until such time as staff reports to the General Issues Committee with respect to the Operating Agreement and Request for Proposals for this location.

(g) MOTIONS (Item 11)

(i) Strategies to Reduce Tax Arrears (Item 11.1)

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

(ii) Assessment of the Business Tax Reduction Program (Item 11.2)

Staff was directed to provide an assessment of the historical pros and cons of the Business Tax Reduction Program, implemented in 2001, through an analysis, based on a return on investment that was justified by the suggestion that the ratio of residential-to-commercial/industrial would be improved by shifting additional taxes onto the residential base from the commercial/industrial base, and report back to the General Issues Committee.

(h) GENERAL INFORMATION/OTHER BUSINESS (Item 13)

(i) Amendments to the Outstanding Business List (Item 13.1)

The following amendments to the General Issues Committee's Outstanding Business List, were approved:

(1) Proposed New Due Dates:

- (aa) Tourism Gateway Centre in Winona
Current Due Date: March 20, 2019
Proposed New Due Date: December 4, 2019
- (bb) Corporate Strategic Growth Initiatives – Annual Update
Current Due Date: March 20, 2019
Proposed New Due Date: October 2, 2019
- (cc) Pier 8 Development Opportunity RFP – Summary of the 4 Proposals
Current Due Date: March 20, 2019
Proposed New Due Date: July 8, 2019
- (dd) CityLAB Pilot Update
Current Due Date: March 20, 2019
Proposed New Due Date: May 1, 2019

(2) Items to be Removed:

- (aa) Review of the Downtown and Community Renewal Improvement Program (Addressed as Item 1(b) at the February 21, 2019 AF&A Agenda – Development Charges Stakeholder Sub-Committee Report 19-002 (FCS18062(a))

- (bb) Policy to Govern the Process for the Installation of Signage, Art, Statues and Other Such Public Projects that are Donated to the City by the Private Sector (Addressed as Item 10.2 on today's agenda (Report PED19068)

(ii) Update respecting the Provinces Intention to Move from 52 Paramedic Services to 10 across the Province (Item 13.2)

Paramedic Chief Sanderson and Paul Johnson, General Manager, Healthy & Safe Communities Department, provided a verbal update respecting the Province's intention to move from 52 paramedic services to 10 across the Province.

The verbal update, respecting the Provinces Intention to Move from 52 Paramedic Services to 10 across the Province, was received.

(i) PRIVATE & CONFIDENTIAL (Item 14)

(i) Closed Session Minutes – March 22, 2019 (Operating Budget) (Item 14.1)

- (a) The Closed Session Minutes of the March 22, 2019 General Issues Committee (Operating Budget) meeting were approved, as presented; and,
- (b) The Closed Session Minutes of the March 22, 2019 General Issues Committee (Operating Budget) meeting shall remain confidential.

(ii) Closed Session Minutes – April 3, 2019 (Item 14.2)

- (a) The Closed Session Minutes of the April 3, 2019 General Issues Committee meeting were approved, as presented; and,
- (b) The Closed Session Minutes of the April 3, 2019 General Issues Committee meeting shall remain confidential.

Committee moved into Closed Session, respecting Appendix "B" to Item 10.11, as well as Items 14.3 and 14.4, pursuant to Section 8.1, Sub-sections (c), (e), (f) and (k), of the City's Procedural By-law 18-270; and, Section 239(2), Sub-sections (c), (e), (f) and (k) of the *Ontario Municipal Act*, 2001, as amended, as the subject matters pertain to a proposed or pending acquisition or disposition of land for City purposes; litigation or potential litigation, including matters before

administrative tribunals, affecting the City; the receiving of advice that is subject to solicitor-client privilege, including communications necessary for that purpose; and, a position, plan, procedure, criteria or instruction to be applied to any negotiations carried on or to be carried on by or on behalf of the municipality or local board.

**(iii) Disposition of Real Estate in the Barton-Tiffany Area (PED19063(a))
(Ward 2) (Item 14.3)**

Staff was provided with direction in Closed Session. For further disposition of this matter, please refer to Item 14.

**(iv) Strathearne Avenue North Monitoring - Potential Regulatory
Litigation (PW19036 / LS19016) (Ward 4) (Item 14.4)**

Staff was provided with direction in Closed Session. For further disposition of this matter, please refer to Item 15.

(j) ADJOURNMENT (Item 13)

There being no further business, the General Issues Committee adjourned at 1:22 p.m.

Respectfully submitted,

B. Clark, Deputy Mayor
Chair, General Issues Committee

Stephanie Paparella
Legislative Coordinator
Office of the City Clerk

2019 AREA RATED LEVIES SUMMARY

AREA RATED SERVICES - URBAN / RURAL

SERVICE	BUDGET	URBAN / RURAL			
		URBAN		RURAL	
Fire	\$ 92,626,801	\$ 85,527,922	92.3%	\$ 7,098,879	7.7%
Recreation	\$ 35,919,945	\$ 33,316,658	92.8%	\$ 2,603,287	7.2%
Sidewalk	\$ 2,900,330	\$ 2,829,463	97.6%	\$ 70,867	2.4%
Street Lighting	\$ 5,754,212	\$ 5,393,749	93.7%	\$ 360,463	6.3%

AREA RATED SERVICES - FORMER AREA MUNICIPALITY

SERVICE	BUDGET	FORMER AREA MUNICIPALITY											
		HAMILTON		ANCASTER		DUNDAS		FLAMBOROUGH		GLANBROOK		STONE CREEK	
Transit	\$ 58,912,940	\$ 48,578,306	82.5%	\$ 2,610,666	4.4%	\$ 1,209,374	2.1%	\$ 1,461,202	2.5%	\$ 1,314,148	2.2%	\$ 3,739,245	6.3%
Sidewalk Snow Removal	\$ 139,256	\$ -	0.0%	\$ 139,256	100.0%	\$ -	0.0%	\$ -	0.0%	\$ -	0.0%	\$ -	0.0%
Parkland Purchases	\$ 1,884,769	\$ 1,227,857	65.1%	\$ 340,013	18.0%	\$ 69,546	3.7%	\$ -	0.0%	\$ -	0.0%	\$ 247,353	13.1%
Special Infrastructure Re-investment	\$ 13,428,870	\$ 13,428,870	100.0%		0.0%		0.0%		0.0%		0.0%		0.0%
TOTAL AREA RATED LEVIES	\$ 211,567,123												

WHEREAS under s. 274 of the *Municipal Act, 2001* S.O. 2001, c. 25, the council of a municipality may, by resolution, request a judge of the Superior Court of Justice to inquire into or concerning any matter connected with the good government of the municipality, or the conduct of any part of its public business;

AND WHEREAS any judge so requested shall make inquiry and shall report the results of the investigation or inquiry to the council as soon as practicable;

AND WHEREAS on February 6, 2019, Council of the City of Hamilton (“**Council**”) was advised that a draft report by Tradewind Scientific Ltd. with respect to friction on the Red Hill Valley Parkway (the “**RHVP**”), dated November 20, 2013 (the “**Report**”), was not disclosed to Council;

AND WHEREAS the Report was provided to the City of Hamilton’s Department of Engineering Services in January, 2014 by Golder Associates Ltd;

AND WHEREAS the Ontario Ministry of Transportation (the “**MTO**”) conducted friction testing on the RHVP in 2007, but did not disclose the results of the testing (the “**MTO Report**”) to Council or to the public;

AND WHEREAS concerns have been raised about why the Report, or the information and recommendations in the Report, were not disclosed to Council;

NOW THEREFORE Council does hereby resolve that:

1. An inquiry is hereby requested to be conducted pursuant to s. 274 of the *Municipal Act*, S.O. 2001, c. 25, which authorizes the Commissioner to inquire into any matter related to a supposed malfeasance, breach of trust, or other misconduct on the part of a member of Council, or an officer or employee of the City of Hamilton or of any person having a contract with it, in regards to the duties or obligations of the member, officer, or other person to the corporation, or to any matter connected with the good government of the municipality, or the conduct of any part of its public business; and
2. The Honourable Chief Justice Smith, Chief Justice of the Superior Court of Ontario, be requested to designate a judge of the Superior Court of Ontario as Commissioner for the inquiry and the judge so designated as Commissioner is hereby authorized to conduct the inquiry in two stages:
 - (a) To obtain, bearing in mind cost and the principles of proportionality, all documents necessary to answer the following questions:

- (i) Identify all individuals who received a copy of the Report or were advised of the Report or the information and recommendations contained therein after it was provided to the City’s Department of Engineering Services in January, 2014;
- (ii) Based on the City’s by-laws, policies and procedures, as they were in 2014, should Council have been made aware of the Report, or the information and recommendations contained therein, once the Report was submitted to the Department of Engineering Services in 2014?
- (iii) Why was the information in the Report, or the information and recommendations contained therein, not provided to Council or the public once the Report was submitted to the Department of Engineering Services in 2014?
- (iv) Who, if anyone, was responsible for the failure to disclose a copy of the Report, or the information and recommendations contained therein, to Council in 2014?
- (v) Was there any negligence, malfeasance or misconduct in failing to provide the Report, or the information and recommendations contained therein, to Council or the public?
- (vi) How was the Report discovered in 2018?
- (vii) Identify all individuals who received a copy of the Report or were advised of the Report or the information and recommendations contained therein, in 2018;
- (viii) Were appropriate steps taken to disclose the Report, or the information and recommendations contained therein, once it was discovered in 2018?
- (ix) Was there any negligence, malfeasance or misconduct in failing to disclose the Report, or the information and recommendations contained therein, once the Report was discovered in 2018?
- (x) Were users of the RHVP put at risk as a result of the failure to disclose the Report’s findings?
- (xi) Did the Report contain findings or information that would have triggered Council to make safety changes to the roads or order further studies?

- (xii) Did the failure to disclose the Report, or the information and recommendations contained therein, contribute to accidents, injuries or fatalities on the RHVP since January, 2014?
- (xiii) Did anyone in the Public Works Office or Roads Department request, direct or conduct any other friction test, asphalt assessment, or general road safety reviews or assessments on the RHVP?
- (xiv) Did subsequent consultant reports provide additional support or rebuttal to the conclusions contained in the Report?
- (xv) Identify any changes to the City’s bylaws, policies and procedures to prevent any such future incidents of non-disclosure of significant information to Council;
- (xvi) Did the MTO Report provide additional support or rebuttal to the conclusions contained in the Report?
- (xvii) Why was the MTO Report not provided to Council or made publicly available?
- (xviii) Who was briefed within the MTO’s office about the MTO Report?
- (xix) Did the MTO Report contain findings or information that would have triggered Council to make safety changes to the roads or order further studies?
- (xx) Did the failure to disclose the MTO Report, or the information and recommendations contained therein, contribute to accidents, injuries or fatalities on the RHVP since January, 2014?
- (xxi) Did the MTO request, direct or conduct any friction tests, asphalt assessments, or general road safety reviews or assessments on the RHVP other than the MTO Report?
- (xxii) What is the standard in Ontario, if any, with respect to the acceptable levels of friction on a roadway?
- (xxiii) Is information with respect to the friction levels of the roadways in Ontario publicly available?
- (xxiv) To what extent do other factors, including, but not limited to, driver behaviour, lighting and weather conditions, contribute to motor vehicle accidents when compared to the impact of friction levels on motor vehicle accidents on the RHVP?

- (b) Having concluded the documentary review, to hold a public hearing to answer the questions listed in items 2 (a) (i) – (xxiv).
3. **AND IT IS FURTHER RESOLVED THAT** the Terms of Reference of the Inquiry shall be to inquire into all aspects of the above matters listed in items 2 (a) (i) – (xxiv), their history and their impact on the ratepayers of the City of Hamilton as they relate to the good government of the municipality, or the conduct of its public business, and to make any recommendations which the Commissioner may deem appropriate and in the public interest as a result of the inquiry.

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