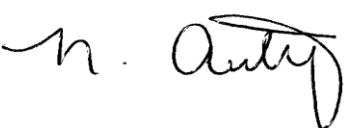




CITY OF HAMILTON
CORPORATE SERVICES DEPARTMENT
Legal and Risk Management Services Division

TO:	Mayor and Members Committee of the Whole
COMMITTEE DATE:	April 29, 2020
SUBJECT/REPORT NO:	Red Hill Valley Parkway Inquiry Update (LS19036(a)) (City Wide)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Nicole Auty (905) 546-2424 Ext. 4636
SUBMITTED BY: SIGNATURE:	Nicole Auty City Solicitor Legal and Risk Management Services 

RECOMMENDATION(S)

- (a) That report LS19036(a) be received; and
- (b) That Council approve the direction provided in Confidential Appendix "A"; and
- (c) That Confidential Appendix "A" and Confidential Appendix "B" remain confidential.

EXECUTIVE SUMMARY

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

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

Alternatives for Consideration – N/A

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

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

Date: To March 31, 2020

City	\$ 714,228.53
Commissioner	\$ 1,141,883.33
Other expenses	\$ 44,883.24
Total	\$ 1,900,995.10

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

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

HISTORICAL BACKGROUND

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

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

The Honourable Mr. Justice Herman J. Wilton-Siegel was appointed to preside over the inquiry in May 2019. The Commissioner has retained Robert Centa of Paliare Roland Rosenberg Rothstein LLP to act as counsel to the Commission. The City has retained Eli Lederman and Delna Contractor of Lenczner Slaght to act as counsel to the City in the Inquiry.

There are six overlapping stages to a judicial inquiry:

1) Logistics and Staff: the Commissioner hires staff necessary to conduct the inquiry, including lawyers, a communications officer and a chief administration officer, and obtains office space from which to conduct the inquiry.

2) Collecting Documents: Counsel to the City obtains and reviews data (documents, emails, reports, etc.) that are in the City's possession and may be relevant to the work of the inquiry. The relevant data is processed and provided to Commission Counsel in an agreed upon electronic format.

3) Interviewing Witnesses: individuals that may have knowledge or information relevant to the work of the inquiry will be interviewed first by Counsel to the City and then by the Commissioner and his Counsel.

4) Standing: the Commissioner established a process through which members of the public applied to participate in the inquiry and to receive funding from the City. The Commissioner issued a decision with respect to standing and funding on February 12, 2020.

5) The Hearing: the Commissioner will hold a public hearing where key witnesses will be examined.

6) The Report: the Commissioner will draft a report at the conclusion of the public hearing, which will include a description of the evidence and the Commissioner's findings and conclusions.

The first, second and third stages (logistics, document collection and interviewing witnesses) are well underway. The fourth stage (the standing process) is completed. We note that the first three stages above are taking place in tandem with the litigation, in which the City is represented by Gowling WLG.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

Not applicable.

RELEVANT CONSULTATION

Not applicable.

ANALYSIS AND RATIONALE FOR RECOMMENDATION(S)

The analysis for the recommendations is set out in the appendix from external legal counsel.

ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN

Community Engagement and Participation

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

APPENDICES AND SCHEDULES ATTACHED

Appendix “A” to Report LS19036(a) – Report to Council from Lenczner Slaght - Confidential

Appendix “B” to Report LS19036(a) – Appendix to report from Lenczner Slaght – Confidential