



INFORMATION REPORT

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| TO: | Mayor and Members General Issues Committee |
| COMMITTEE DATE: | April 6, 2022 |
| SUBJECT/REPORT NO: | Red Hill Valley Parkway Inquiry Update (LS19036(i)) City Wide) |
| WARD(S) AFFECTED: | City Wide |
| PREPARED BY: | Eli Lederman and Delna Contractor, Lenczner Slaght LLP Patricia D'Souza, Solicitor (905) 546-2424 Ext. 4637 |
| SUBMITTED BY: | Ron Sabo, Acting City Solicitor, Legal & Risk Management Services |
| SIGNATURE: | |

COUNCIL DIRECTION

On April 24, 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 LLP and the costs to date of the Inquiry.

INFORMATION

The costs of the Inquiry to date are outlined in the following chart, representing external legal fees for the Commissioner, external legal fees for the City, including Deloitte services for data hosting, reviewing and producing documents and other associated expenses, including digitizing paper files, and website hosting. These expenses are being funded from the Tax Stabilization reserve.

| To February 28, 2022 | |
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| City's Expenses (e.g. data collection) | \$ 97,001.39 |
| City's External Legal Counsel | \$ 4,619,832.75 |
| Commission Counsel | \$ 7,290,701.68 |
| Other Expenses (e.g. consultants) | \$ 1,196,226.79 |
| Total | \$ 13,203,762.61 |

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 LLP to act as counsel to the City in the Inquiry.

There are six overlapping stages to this 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.

STATUS OF THE INQUIRY

Interviews Conducted by Commission Counsel

Commission Counsel has completed nearly 50 interviews totalling approximately 300 hours of interview time. Commission Counsel wishes to interview two additional witnesses and seeks additional time to complete the interviews of two previously interviewed witnesses. We expect that these interviews will be completed in the Q2 of 2022.

Additional Document Production & Inquiry Database

On November 18, 2020, Commission Counsel gave the participants access to a database consisting of documents obtained by Commission Counsel from the participants to the Inquiry and other entities (the “**Inquiry Database**”). To date, the Inquiry Database contains approximately 126,000 documents, which include over 72,000 documents produced by the City.

The City continues to respond to requests from Commission Counsel for additional documents or information, some of which arose in response to information obtained through the witness interview process. It is expected that additional documents will be included in the Inquiry Database.

Overview Document

Based upon the documents obtained from the participants to the Inquiry, Commission Counsel has prepared an Overview Document, which will be used at the Public Hearing as a guiding document. It contains a summary of the documents relevant to the issues in the Inquiry, as determined by Commission Counsel.

The Overview Document contains ten chapters and spans from the design and construction of the Red Hill Valley Parkway (“**RHVP**”) to the resurfacing of the RHVP in 2019.

Public Hearing

We expect that phase one of the Public Hearing will commence in the second quarter of 2022. We understand that Commission Counsel will announce the start date of the Public Hearing.

Cost Implications

In December 2022, Council was advised that, based on costs incurred and the estimates provided by Commission Counsel and the City’s external counsel, the estimated cost of the Inquiry is between \$18 and \$20 million. Based on the costs

incurred since December 2021 to date, the City can continue to expect the costs of the Inquiry to fall between \$18 and \$20 million.