



CITY OF HAMILTON
PUBLIC WORKS DEPARTMENT
Environmental Services Division

TO:	Chair and Members General Issues Committee
COMMITTEE DATE:	October 16, 2024
SUBJECT/REPORT NO:	Public Access to Hamilton Piers (PW24061) (Ward 5) (Outstanding Business List Item)
WARD(S) AFFECTED:	Ward 5
PREPARED BY:	Kara Bunn (905) 546-2424 Ext. 4334 Cynthia Graham (905) 546-2424 Ext. 2337
SUBMITTED BY:	Cynthia Graham Director, Environmental Services Public Works Department
SIGNATURE:	

Discussion of Confidential Appendix “A” to Report PW24061 is subject to the following requirement(s) of the City of Hamilton’s Procedural By-law and the Ontario Municipal Act, 2001:

- **Litigation or potential litigation, including matters before administrative tribunals, affecting the City or a local board; and**
- **Advice that is subject to solicitor-client privilege, including communications necessary for that purpose.**

RATIONALE FOR CONFIDENTIALITY

Appendix “A” to Report PW24061 is being considered in Closed Session as it contains information provided to the City in confidence.

RATIONALE FOR MAINTAINING CONFIDENTIALITY

Appendix “A” to Report PW24061 is to remain confidential as it was provided to the City in confidence.

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.

RECOMMENDATION

- (a) That the General Manager, Public Works or designate be authorized to enter into a public use license agreement, including any ancillary agreements or amendments, with the land stewards acting on behalf of the Crown, to permit public access to the Lake Ontario side of the Hamilton portion of the Federally owned piers (“the Hamilton Piers”), consistent with the parameters outlined in Report PW24061;
- (b) That staff be authorized to spend \$50,000 to implement minor improvements to the walking surface to access the Lake Ontario side of the Hamilton Piers, as well as the surface of the Hamilton Piers itself as may be needed to improve public access, to be funded from the Unallocated Capital Levy Reserve 108020;
- (c) That staff be authorized to spend \$350,000 to install railings on both sides of the Lake Ontario side of the Hamilton Piers for public health and safety, to be funded \$250,000 from Hamilton Beach Lift Bridge Pier project ID 4402356127 and \$100,000 from the Unallocated Capital Levy Reserve 108020; and
- (d) That the Environmental Services Division, Parks Section’s annual operating budget be increased by \$20,000 to fund the ongoing operations and maintenance to support public access to the Lake Ontario side of the Hamilton Piers, starting in 2025.

EXECUTIVE SUMMARY

In 2022, Report PED21064(a)/PW22075 directed staff to enter into negotiations with the Hamilton-Oshawa Port Authority to establish an agreement to have the City of Hamilton operate and maintain public access to the Lake Ontario and Hamilton Harbour Piers (The Piers) at the Lift Bridge. The Piers are under the control and stewardship of the Hamilton-Oshawa Port Authority, and Public Services and Procurement Canada, a ministry under the Government of Canada. An agreement would establish the City’s roles and responsibilities for public access and would be a three-party agreement with both federal entities.

Staff have met regularly with a working team including representatives from the Hamilton-Oshawa Port Authority and City of Burlington since that time, to determine conditions and requirements for an agreement.

At this time, staff have enough information to come back to Council for authority to finalize the agreement terms and conditions, with a few outstanding issues to resolve. One outstanding issue involves mapping the lands to delineate property title ownership between the two federal bodies, the Ministry of Transportation of Ontario, and the utility

easements running across the area, which is a challenge due to incomplete and inconsistent records.

Staff recommend the installation of appropriate railing at the Hamilton Pier to suit the new use. The Hamilton-Oshawa Port Authority has advised that they will not fund the railings proposed by the City. Instead, they have committed to either install a bullnose rail (ankle height) or contribute the funds they would have spent on that bullnose rail towards the City staff recommended full-height safety railing.

Staff recommend the installation of appropriate railings prior to allowing public access. Particulars regarding the City's proposed railing are included in the Risk Management report prepared by City of Hamilton staff in Confidential Appendix "A" of Report PW24061.

One last clarification is required to finalize the agreement, and that is the extent of the area to become the operational responsibility of the City. The original report identified the full length of the Piers, both into Lake Ontario, and into Hamilton Harbour, as well as the pier span between the two for public access. The recommendation of Report PW24061 provides direction to staff to ratify the agreement for the lands for public access to the Lake Ontario portion only of the Hamilton Piers, in order to move forward with the public access to the Lake Ontario portion in a timely way while negotiation for the remaining portions continue.

The recommendations of Report PW24061 give staff the direction to proceed with finalizing the agreement and preparing the Hamilton Piers for public use, with the intention to have the Piers open for use for the 2025 season.

Appendix "B" of Report PW24061 outlines the draft operating terms and conditions recommended by City staff, and agreed in principle with the Hamilton-Oshawa Port Authority, the parameters of which include locks and gates to restrict access, specifically between October and May (winter season), and during extreme storms between May and October (summer season). These terms and conditions would be finalized and ratified as part of the agreement. Through approval of Report PW24061, staff understand that minor adjustments can be made to these terms and conditions through the negotiations to finalize the agreement.

Appendix "C" of Report PW24061 illustrates the lands to be used for access to the Hamilton Pier covered by the agreement, including ownership, and which lands will be the responsibility of the City. The area adjacent to the bridge will have permanent fencing to protect the area under Federal control, and therefore the access to the Hamilton Harbour portion of the Hamilton Piers is restricted as well.

Appendix "D" of Report PW24061 illustrates the design of the Hamilton Pier with railing and concrete barrier conditions, as well as public access to the area.

The City of Burlington staff that are part of the working group intend to bring a similar report to their Council for direction.

Alternatives for Consideration – See Page 6

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: There is an existing capital project ID 4402356127 with a balance of \$250,000. The project ID was set up in anticipation of costs required to prepare the Hamilton Piers for public use, and would be above and beyond the costs covered by the Hamilton-Oshawa Port Authority. The amount to be contributed by the Hamilton-Oshawa Port Authority is still being confirmed.

The costs for railing installation is anticipated to be \$350,000 for both the full extent of the channel side of the Lake Ontario portion of the Hamilton Pier, and the part of the beach side that does not currently have the concrete barrier. These costs will be funded \$250,000 from capital project 4402356127 Hamilton Beach Lift Bridge Pier and \$100,000 from the Unallocated Capital Levy Reserve 108020.

The costs to implement minor improvements to the walking surface to access the Lake Ontario side of the Hamilton Piers, as well as the surface of the Hamilton Piers itself, is anticipated to be \$50,000. These costs will be funded from the Unallocated Capital Levy Reserve 108020.

The City Parks section annual base operating budget is required to be increased by \$20,000, starting in 2025. This will include minor repairs for tripping hazards and railing, opening and closing the gates, garbage collection at the trail head, and work that arises from regular inspections of the Hamilton Pier for hazards. Larger repairs, for example from storm damage or major vandalism to the railing, would require a capital project to complete and would be requested as needed.

Staffing: There are no staffing implications.

Legal: Legal Services staff are working to finalize the agreement as outlined in Report PW24061.

HISTORICAL BACKGROUND

Report PED21064(a)/PW22075 was approved at General Issues Committee on September 21, 2022, and directed staff to enter into negotiations with the Hamilton-Oshawa Port Authority in order to establish an agreement to have the City manage public access at the Hamilton and Burlington Piers (“the Pier(s)”).

Prior to 2021, the gates at the Piers were unlocked and the public had access to walk the length of the Piers. On the Hamilton side, that included the pier that extends into Lake Ontario, as well as the pier that extends into Hamilton Harbour. The public used the Piers for fishing, recreation (walking), and to enjoy being out on the Piers for the views.

Gates were installed by Transport Canada in 2021 to restrict the public access. In June of 2022, the responsibility for the Piers was transferred from Transport Canada to the Hamilton-Oshawa Port Authority. At that time, the Hamilton-Oshawa Port Authority indicated that there was a willingness to lease the Piers to the municipalities (Hamilton and Burlington) to permit public access for recreational purposes.

In 2023, the Hamilton-Oshawa Port Authority made some improvements to the Piers, including walking surface repairs, installation of safety ladders and equipment, and weed removal.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

There are no policy implications or legislated requirements related to the recommendations in this Report.

RELEVANT CONSULTATION

Risk Management staff prepared the Risk Analysis report Confidential Appendix “A” to Report PW24061 to advise on primary risk and legal concerns and to provide recommendations for mitigation. Risk Management staff are in agreement with the recommendations of Report PW24061.

City of Burlington staff have been part of the working group to prepare the agreements, as a consistent approach for the Piers is desired for both municipalities. The agreement for Hamilton’s side will not include the City of Burlington, however it was desirable to coordinate the work.

Hamilton-Oshawa Port Authority staff have been part of the working group to prepare the agreements for the City of Hamilton, to facilitate public access to the Hamilton Piers.

Public Service and Procurement Canada staff have been part of the working group to prepare the agreements required to allow public access to the Hamilton Piers, as that ministry oversees lands in the area, including the lift bridge and lighthouse. The public will need to cross lands under the control of this entity to access the Piers.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

The recommendations of Report PW24061 will give staff the authority and direction to complete the agreement required to permit public access to the Lake Ontario side of the Hamilton Piers. The recommendations of Report PW24061 are reflective of the discussions with the working group, reflects concerns raised about access to areas of the Piers by Risk Management, and Public Service and Procurement Canada, and is consistent with the direction given to City staff through Report PED21064(a)/PW22075. The recommendations also outline the costs associated with permitting public use of the Lake Ontario side of the Hamilton Piers.

The recommendations do not include any additional public realm improvements (such as seating or garbage containers). Instead, a waste container could be added at the head of the trail on City parkland property. Staff understand that public realm improvements are a desire, however, through the negotiations with Hamilton-Oshawa Port Authority staff, it was determined that within the next 10 years, the structure of the Piers will require major restoration works, requiring the closure and removal of significant sections of the Piers. Any improvements or investments in the Piers may be compromised, and best coordinated with that upcoming structural repair. Additionally, public consultation to inform a master plan for the Piers design has not taken place, and is a best practice, understanding how the public might use or benefit from public realm improvements, which can be part of a future effort and investment. Additional considerations for security along the Hamilton Piers is also required, as this is a major shipping route. Designs will need to be reviewed with safety in mind, for considerations such as climb-ability, objects that could end up in the shipping channel, or objects that could hide explosive devices. Lastly, staff understands that the priority is to open up access for the public and do not want to delay the ratification of an agreement that would achieve this goal.

Appendix “B” of Report PW24061 outlines the work that will be undertaken by City staff, and the conditions under which the Lake Ontario portion of the Hamilton Pier would be opened or closed. It should be noted that in general, events would not be permitted, but that photography, including wedding photography, would be permitted with an application and adherence to conditions for number of people and safety. Additionally, the areas for public access would not be considered a compliant site under the City’s Encampment Protocol.

ALTERNATIVES FOR CONSIDERATION

Alternative 1

An alternative to the recommendations of Report PW24061 is to proceed with the agreement to take over the operations of the Lake Ontario side of the Hamilton Piers,

but to not install the railings. The Hamilton-Oshawa Port Authority will install bullnose (ankle height) railings at their cost. Staff do not recommend this alternative.

Financial: Costs for this alternative are reduced to reflect less work and expenses anticipated to maintain because there is no railing. The capital costs for minor walking surface improvements to be funded from the existing project ID 4402356127, and ongoing maintenance of the Hamilton Pier are required, and the increase to the City Parks Section operating and maintenance base budget is required of \$15,000. The remaining capital funds in project ID 4402356127 can be used for future improvements or returned to source.

Staffing: No staffing implications with this alternative.

Legal: This alternative poses significant potential health and safety risks to the public.

Alternative 2

A second alternative to the recommendations of Report PW24061 is to direct staff to continue to pursue an agreement that covers the full extent of the Hamilton Piers, including public access to the area under the lift bridge, and the Hamilton Harbour portion of the Hamilton Piers. Discussions with land stewards (Public Service and Procurement Canada, and Hamilton-Oshawa Port Authority, with the ownership sitting with the Crown) indicate that there are significant challenges and considerations with this option, and ratification of an agreement for these lands is not guaranteed. As this option would delay the ratification of the agreement to allow public access to the Lake Ontario portion of the Hamilton Piers, which is more straightforward and is the area most sought after for recreation, staff do not recommend this alternative.

Financial: Costs would increase for this alternative, as the City would take on the full extent of the pier, increasing the length of maintained pier from 440 linear metres to 830 linear metres. Railing costs would increase from \$350,000 to \$580,000 and ongoing annual maintenance costs would increase from \$20,000 to \$22,000.

Staffing: No staffing implications with this alternative.

Legal: This alternative poses additional health and safety risks to the public.

APPENDICES AND SCHEDULES ATTACHED

Confidential Appendix "A" to Report PW24061 – Burlington Harbour and Fisherman's Piers Risk Analysis Report

SUBJECT: Public Access to the Hamilton Piers (PW24061) (Ward 5) - Page 8 of 8

Appendix "B" to Report PW24061 – Hamilton Pier recommended operating terms and conditions

Appendix "C" to Report PW24061 – Hamilton Piers land ownership map

Appendix "D" to Report PW24061 – Plan showing railing and trail access to the Hamilton Pier