

CITY OF HAMILTON

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Economic Development Division

TO: Chair and Members Planning Committee	WARD(S) AFFECTED: WARD 2
COMMITTEE DATE: September 18, 2012	
SUBJECT/REPORT NO: Hess Village Paid Duty Program (PED12142) (Ward 2) (Outstanding Business Item List)	
SUBMITTED BY: Tim McCabe General Manager Planning and Economic Development Department	PREPARED BY: Alan Waterfield (905) 546-2424 Ext. 1251
SIGNATURE:	

RECOMMENDATIONS:

- (a) That the Hamilton Police Services Board be requested to include in the overall Hamilton Police Service budget, the cost of two (2) paid duty constables for Hess Village Paid Duty Program cost sharing.
- (b) That the Parking and By-law Services Division amend Schedule 21 of the Business Licensing By-law to more accurately reflect current practice with respect to Special Duty Police Officers in the Hess Village Entertainment District, including the specified minimum number of police officers, days and times of service, and billing procedure.
- (c) That other options for redistributing the collective cost associated with the paid duty fees, paid by the Hess Village merchants, continue to be explored by the Hess Village Community Liaison Committee and Urban Renewal, in consultation with Parking and By-law Services, including the potential expansion of the Hess Village Entertainment District and/or increasing the types of businesses contributing, in consultation with the affected merchants.

- (d) That the item respecting Hess Village Paid Duty Program be removed from the Planning Committee Outstanding Business List.

EXECUTIVE SUMMARY

This Report (PED12142) addresses issues relating to the Hess Village Paid Duty Program, particularly the cost of the Program to the contributing Hess Village merchants and its ongoing funding. Off-duty police officers are often hired to provide “paid duty” or “special event” service on a voluntary basis as well as in other circumstances where the use of paid duty officers are required by the City. Hamilton’s Business Licensing By-law requires all food premises establishments operating as a bar/nightclub within the Hess Village Entertainment District to contribute to the cost of retaining paid duty police officers, on grounds set out in the By-law. The Entertainment District is defined in the By-law as the area bound by Queen, King, Caroline and Main Streets.

The Program was initiated in the year 2000, when the cost was shared between the Hess Village merchants and the Hamilton Police Service (HPS). It was based on a verbal agreement between the merchants and the HPS, independent of City by-laws. The Program was formally established in a City by-law in 2005, which required the use of paid duty officers as a special condition of the business licence. Licensing by-laws may include conditions that impose costs which are not part of the licensing fee; in this case, paid duty fees are set by the HPS. The cost sharing arrangement between the merchants and the HPS continued, with half of the paid duty officers (i.e. one (1) sergeant and three (3) constables) paid for by the Hess Village merchants through paid duty fees and the other half (i.e. four (4) constables) paid for by the Hamilton Police Service through its overtime budget. This 50-50 cost sharing model changed following the comprehensive Hess Village Review conducted in 2009.

The current Business Licensing By-law states that the Hess Village bar/nightclub operators “shall retain a minimum of 10 Special Duty Police Officers for the Hess Village Entertainment District each Thursday, Friday and Saturday from 11:00 p.m. to 4:00 a.m. beginning April 15 and ending November 15 each calendar year.” Each establishment’s contribution is pro rated based on its share of the total liquor licence capacity and must be paid in order to maintain and renew the business licence. The by-law also enables the Chief of the HPS or designate to suspend the requirement to retain paid duty officers, and/or subject to notice provisions, further expand the season, and/or increase or decrease the number of paid duty officers required.

In practice, there have been up to eight (8) paid duty officers retained by the Hess Village merchants, primarily for four (4) hour shifts on Friday and Saturday nights during the core patio season, with fewer officers retained in the shoulder season. The decision regarding how many paid duty officers will be present is made by the HPS with input from the bar/nightclub operators, depending on the time of year, weather, and number of establishments planning to be open. In 2011, invoices were issued to 15 businesses totalling nearly \$189,000 for service from the second week of January to October 29.

Although the Hess Village merchants now contribute 100% of the fees for up to eight (8) paid duty officers (instead of four (4)), it is the position of the HPS that the full cost of providing the Hess Village Paid Duty Program continues to be shared as the HPS incurs costs specific to Hess Village over and above the paid duty fees for the eight (8) officers. These costs include one (1) communications dispatcher in the Village and three (3) mobile perimeter patrol officers, and totalled \$65,860 from April 15 to October 29 in 2011. In addition, the mounted unit and the ACTION team may also be present in the Entertainment District under the HPS' regular patrol parameters. There were 301 Central uniform patrol calls for service to Hess Village in 2011.

The HPS has advised that a minimum of eight (8) paid duty officers is required within Hess Village, in keeping with current practice rather than the By-law requirement of 10, in addition to the one (1) communications dispatcher and three (3) mobile perimeter patrol officers. Further, the HPS advises that the use of volunteer auxiliary officers cannot substitute for paid duty officers.

Restoring the Hess Village Paid Duty Program to the cost sharing model utilized prior to the 2009 Hess Village Review (i.e. - a 50-50 split of eight (8) officers), without compromising the number of officers that the HPS determined to be appropriate, would require annual funding from a source other than the Hess Village merchants. The cost of four (4) paid duty constables, based on the 2012 hourly rate, serving four (4) hour shifts on Friday and Saturday nights, from April 15 to November 15 (i.e. 30 weekends), would amount to \$76,822. This estimate does not include fees for paid duty officers that may be present in Hess Village outside of the April to November season.

The recommended cost sharing option would recognize the HPS contribution of the communications dispatcher and mobile perimeter patrol officers. A 50-50 split of 12 HPS personnel would have the Hess Village merchants fund up to six (6) paid duty officers (instead of eight (8)), with the cost of two (2) officers funded by HPS in addition to the dispatch and mobile officers. The cost of two (2) paid duty constables, based on the 2012 hourly rate, serving four (4) hour shifts on Friday and Saturday nights, from April 15 to November 15 (i.e. 30 weekends), would amount to \$38,411. Again, this estimate does not include fees for paid duty officers that may be present in Hess Village outside of the April to November season.

The request would require the Police Services Board to accommodate the additional cost in its future budget submissions, and would have implications for the overall Hamilton Police Service budget and, in turn, the net levy.

Hess Village contributes to Hamilton's offering of arts and entertainment, enhancing the City's vibrancy and its appeal to residents as well as tourists and other visitors. It has been identified in City policy as a specialty commercial area with a key dining and entertainment focus in the Downtown with active spaces. It is, therefore, expected that the District will attract high volumes of people to many of the businesses encouraged to locate there which, in turn, may warrant closer attention from the police and municipal law enforcement to help manage and control the negative impacts of an entertainment

district that may otherwise result. This requires balance between supporting the needs of an entertainment district and the responsibility of the operators of those late night establishments that contribute to the need for the extra police presence.

Alternatives for Consideration – See Page 22

FINANCIAL / STAFFING / LEGAL IMPLICATIONS (for Recommendation(s) only)

Financial: Funding for regular police services is supported by the municipal property tax base and provincial and/or federal government program grants, such as the Provincial Anti-Violence Intervention Strategy (PAVIS) which was used by the HPS to support its ACTION team. Under Section 39 of the Police Services Act, the Hamilton Police Services Board submits operating and capital estimates to Council as part of the City’s annual budget deliberations. Council establishes the overall budget for the Board but does not have the authority to approve or disapprove specific items in the estimates. Restoring the Hess Village Paid Duty Program to a cost sharing model where the HPS assumes a greater amount of the cost on an annual basis would require the Police Services Board to accommodate the additional cost in its future budget submissions, and would have implications for the overall Hamilton Police Service budget and, in turn, the net levy. The City may request, but cannot require, the HPS to cost share; such an agreement would be between the HPS and the Hess Village merchants.

Staffing: None.

Legal: Municipal Authority to Require Paid Duty Policing in Hess Village through Business Licensing

The requirement for Paid Duty officers is a special condition of each business licence for bars/nightclubs in the Hess Village Entertainment District, authorized under paragraph 151(1)(d) of the Municipal Act, 2001:

“151. (1) Without limiting sections 9, 10 and 11, a municipality may provide for a system of licences with respect to a business and may,

(d) impose special conditions on a business in a class that have not been imposed on all of the businesses in that class in order to obtain, continue to hold or renew a licence”.

In the case of the Hess Village Paid Duty Program, the special condition has not been imposed on all food premise businesses but only on those food premise businesses operating as a bar/nightclub within the Hess Village Entertainment District. Subsection 151(4) of the Municipal Act, 2001 requires that the grounds for such a condition be set out by by-law. This requirement is done in Section 9 of Schedule 21 (Food Premises) in the City’s Business Licensing By-law which notes that the Hess Village Entertainment District:

“(a) has the highest concentration, in terms of capacity, of bars/nightclubs, many with outdoor patios, in the City; and

(b) from April 15 to November 15 each year has a large number of individuals attending such bars/nightclubs resulting in:

- (i) significant noise, litter and other nuisances, such as urination in public places in and around the Hess Village Entertainment District;
- (ii) line-ups to enter the bars/nightclubs that pose a safety risk to pedestrian and vehicular traffic, including inhibiting the flow of traffic along Hess Street; and
- (iii) additional issues related to nuisance and safety resulting from the large number of individuals in attendance and the consumption of alcohol, in particular when such bars/nightclubs close and these individuals exit en masse.”

The special condition is supported by subsection 8(4) of the Municipal Act, 2001, which states that “a by-law under this Act may be general or specific in its application and may differentiate in any way and on any basis a municipality considers appropriate.”

Licensing by-laws can include conditions applying to classes (e.g. food premises) or sub-classes (e.g. bar/nightclub) of businesses imposing costs which are not part of the licensing fee; for example, the condition that taxicabs be equipped with cameras or the condition that residential care facilities have 24-hour supervision. The cost of paid duty police is charged by and paid to the HPS, although, in the case of the Hess Village Paid Duty Program, the City now issues invoices and collects payment on behalf of the HPS. The fees are set by the HPS.

HISTORICAL BACKGROUND (Chronology of events)

At the December 6, 2011 Planning Committee meeting, staff was directed to report back on issues relating to the Hess Village Paid Duty Program, including:

- the Program’s impact and effectiveness;
- the benefits associated with the Hess Village Entertainment District;
- the Program cost and cost sharing model history;
- the Program billing delivery system, including the administration fee; and,
- potential revenue sources for restoring the cost sharing model and to offset the Program cost.

In addition to the Committee’s resolution, a delegation by the operator of several Hess Village bars expressed concern about the increasing cost of the Program to the contributing establishments.

A later motion before the June 19, 2012 Planning Committee, regarding implementation retroactive to the start of the 2012 patio season, was referred to the future meeting when this Report is to be considered.

Hess Village Paid Duty Program History

Purpose and Origin (2000-2002)

The Hess Village Paid Duty Program was initiated in the year 2000 to ensure that the additional policing necessary to maintain adequate public safety and order in the Entertainment District is provided. It recognized the shared responsibility of the Hess Village merchants to help control and address issues related to the District and impacting the surrounding neighbourhoods. The mixture of alcohol, hot weather and crowds of patrons in close proximity results in incidents and behaviours causing safety, health and nuisance concerns, often requiring a police response.

The presence of paid duty officers is a proactive approach that deters inappropriate behaviour. At the same time, it reduces calls for service from the District by providing a more immediate response to incidents that do arise, which would otherwise draw from on-duty officers elsewhere in the City.

- The Program was based on a verbal agreement between the Hamilton Police Service (HPS) and the Hess Village bar/restaurant operators association (Hess Village merchants), independent of City by-laws.
- Paid duty officers were scheduled between 11:00 p.m. and 3:00 a.m. on Friday and Saturday nights from the Victoria Day weekend to the Labour Day weekend in 2000, 2001 and 2002.
- The Hess Village merchants paid 50% of the cost based on the hourly rate of the officers performing the paid duty and the other 50% was paid by the HPS.
- The Program excluded special event weekends for which the event organizers paid 100% of paid duty costs, as per other special event paid duty requests from elsewhere in the City.
- The Hess Village merchants' 50% share was allocated among the merchants by a formula through which half of the merchant cost was distributed evenly on a per establishment basis, and the other half was distributed based on each establishment's share of the total liquor licence capacity issued by the Alcohol and Gaming Commission of Ontario (AGCO).
- Invoices were issued by the HPS, and payments collected by the HPS.

City Staff/HPS Report (2003)

The City was advised in early 2003 that three (3) of the Hess Village merchants refused to contribute to the Hess Village Paid Duty Program, resulting in other operators being reluctant to continue doing so. The cost was financed by the HPS and two (2) operators who temporarily agreed to honour the verbal agreement to contribute to the Program. In response, a joint City/HPS report (PD03173) concerning the issue of Hess Village policing was prepared with recommendations to allow the Program costs to be recovered from the Hess Village merchants on a systematic basis.

The recommendations approved by Council on July 9, 2003 described the Program as follows:

- A minimum of eight (8) paid duty officers (i.e. one (1) sergeant plus seven (7) constables) would be in attendance in Hess Village from between 11:30 p.m. and 3:30 a.m. on Friday and Saturday nights from the beginning of the Victoria Day weekend to the end of the Thanksgiving Day weekend (excluding special event weekends).
- The original cost sharing arrangements were maintained.

The recommendations approved by Council in 2003 also anticipated a by-law to follow that would designate the Hess Village Entertainment District, defined as the area bounded by Queen Street South, King Street West, Caroline Street South and Main Street West. It was originally recommended that the policing fees and fees for proactive municipal enforcement of the noise by-law would be allocated to the respective property tax accounts of each establishment licensed by the AGCO in the District; however, in subsequent discussions with the affected merchants, it was requested that the City link the fees to the business licence in preference to the property tax account, as the latter option would affect lease agreements between the bar operators and the respective property owner, who are not necessarily the same entity.

Hess Village Entertainment District By-law (2005)

The Hess Village Entertainment District By-law passed on June 29, 2005, formally designating the Hess Village Entertainment District and linking the Program to the City's Business Licensing By-law. It established licence conditions requiring the payment of paid duty officers.

- As defined in the Entertainment District By-law at that time, "there shall be a minimum of eight (8) Special Duty Police Officers retained for the Hess Village Entertainment District each Thursday, Friday and Saturday from 11:00 p.m. to 4:00 a.m. beginning April 15 and ending October 31 each calendar year (the "peak times"), by the Licensees of public halls, places of amusement, restaurants, food shops and outdoor patios."
- As a result, the season as defined in the By-law expanded, Thursday nights could be added, and the time period increased by one (1) hour (although in practice, paid duty officers were typically present in Hess Village for four (4) hours on Friday and Saturday nights).
- The By-law enabled the Chief of the HPS or designate to suspend the requirement to retain the paid duty officers for any day or time period if he/she determines they are not required or available.
- The Chief of the HPS or designate was also provided the discretion to, subject to notice provisions, further expand the season, and/or increase or decrease the number of paid duty officers required.

- The By-law required each Hess Village merchant to contribute their pro rata share, based on occupancy capacity, to the cost of the paid duty officers, whether there be eight (8) or more or less officers as determined by the Chief of the HPS.
- A certificate from the HPS to the City confirming that payments are in good standing became a requirement in order for the relevant business licences to be issued, maintained and renewed.
- Failure to comply would be grounds for a hearing before the City's Licensing Tribunal which could result in the refusal, revocation or suspension of the business licence.

Regarding cost sharing with the HPS, the 2005 staff report (PED05034) recommending approval of the Hess Village Entertainment District By-law indicates agreement among the HPS, City licensing staff and the Hess Village merchants that the cost of the eight (8) paid duty officers would be shared between the HPS and the merchants. Specifically, the report references agreement that the HPS would pay for four (4) constables and the merchants would pay for one (1) sergeant and three (3) constables.

Additional Perimeter Patrols (2007-2008)

In 2007, it was suggested that two (2) additional paid duty officers patrol the neighbourhoods around Hess Village but an agreement to fund them through the Paid Duty Program could not be reached. Instead, during the summers of 2007 and 2008, the City provided funding from the Downtown capital block to pay for the two (2) perimeter patrol officers as a pilot project. The HPS reported that this initiative helped reduce the number of complaints from the surrounding residents regarding incidents and behaviours occurring when thousands of patrons attend or leave the District, including pre- and post-drinking. The HPS has continued to provide and fund three (3) perimeter patrols.

Hess Village Review (2009)

In February 2009, Council directed City staff to conduct a comprehensive review of issues related to the Hess Village Entertainment District. This direction flowed from concerns raised by the HPS and area residents about incidents and behaviour within the District and impacting on surrounding neighbourhoods. The expansion of the District's density of establishments and licensed capacity from 3,120 in 2003 to over 4,700 in 2009 and increased popularity with the late-night, younger drinking crowd were also concerns noted to justify an increase in the number of paid duty officers required by the HPS.

A series of recommendations were approved by Council on May 21, 2009, through the Hess Village Review (PED09127). Specific to the Paid Duty Program and its funding:

- Council approved an amending by-law to repeal the stand-alone Hess Village Entertainment District By-law and integrate its provisions directly into the Business Licensing By-law, eliminating the duplication and cross-referencing between the two (2) by-laws.

- The minimum number of paid duty officers identified in the Business Licensing By-law was increased from eight (8) to 10. However, in practice there have typically been eight (8) paid duty officers present in the District for four (4) hour shifts on Fridays and Saturdays during the peak times.
- On the cost sharing issue, the By-law continued to require each Hess Village merchant to contribute their pro rata share, based on the total capacity of their liquor licence, to the cost of the paid duty officers. However, the report (PED09127 Hess Village Review) notes that although it had been shared in the past, the cost of the paid duty officers now would be covered completely by the Hess Village merchants, as recommended by the HPS in their report, 2009 Policing Strategies at Hess Village, included as Appendix "F" to Report PED09127. This HPS document, received by Council through the Hess Village Review recommendations, stated that the HPS was prepared to pay for the cost of the police communications dispatcher at Hess Village and three (3) perimeter patrol officers, and that the cost of the 10 paid duty officers would be shared by the Hess Village merchants, based on total licensed seating capacity.
- It was also recommended by Council that the Province of Ontario be requested to provide funding for the cost of additional policing for the Hess Village Entertainment District in the interests of promoting tourism and the safety and security of the area and Downtown. To this end, the Mayor (Eisenberger) sent a letter to the Minister of Community Safety and Correctional Services on June 2, 2009, requesting funding. A copy of the Provincial response is provided in Appendix "A" to Report PED12142.
- Parking and By-law Services staff was directed to investigate and report back on several issues relating to licensing, including: the creation of a new bars and nightclubs licensing category; improvements to the liquor licence application review process; and, potential expansion of the Hess Village Entertainment District boundary to include business properties benefiting directly from their proximity to the area, so that they would share in the cost of the paid duty officers. In subsequent reports in 2009 and 2010 (i.e. - Reports PED09127(b), (c) and (d) regarding establishing a bar and nightclub licensing category), it was recommended that the District boundary not be expanded because of the changes being made to the Licensing By-law, the liquor licence application review process, and other implemented recommendations of the Hess Village Review, which were intended to result in better controls on current establishments within the defined Hess Village Entertainment District, and possibly reduce policing needs/costs over time.

Other recommendations approved by Council through the Hess Village Review included the following initiatives:

- A public nuisance by-law was enacted which has been an effective tool for the HPS and municipal law enforcement to curtail inappropriate behaviour such as public urination, not only in Hess Village but throughout the City;
- Improved lighting was installed to encourage crowds of Hess Village patrons to disperse at closing time; garbage receptacles were secured;

- Regulations regarding parking, stopping and taxi lanes in and adjacent to Hess Village were revised to provide more space and reduce congestion;
- Zoning By-law regulations concerning capacities on outdoor commercial patios and the outdoor commercial patio encroachment agreement process were amended.

New Bars and Nightclubs Licensing Category (2010)

An amendment to the City's Business Licensing By-law was approved by Council on December 15, 2010, to establish the new bar/nightclub licensing sub-category, and to apply the Hess Village Paid Duty Program to the bar/nightclubs with the Hess Village Entertainment District.

- The bar and nightclub licensing sub-category addresses establishments with a primary purpose of serving alcohol and/or providing entertainment/dancing. These activities promote clustering and increased interaction between patrons while consuming alcohol, resulting in greater risks (e.g. noise, nuisance, capacity) that require more attention from enforcement staff. The sub-category provides additional licensing controls such as requiring noise and crowd control plans, and at least one (1) security guard, licensed under the provincial Private Security and Investigative Services Act, for every 100 customers in attendance at the premises.
- A "bar/nightclub" is defined in Schedule 21 (Food Premises) of the Business Licensing By-law to be a food premises when:
 - “(i) the primary purpose of the food premises is any one or more of the following:
 1. serving alcohol to customers;
 2. entertaining customers by playing live or recorded music; or
 3. accommodating dancing by customers; and
 - (ii) the food premises provides seating in a licensed area, as set out in the food premises' liquor licence, for less than 65% of customers who are served with food or drink.”
- The amendment also extended the season defined for the Hess Village Paid Duty Program to November 15 of each calendar year.

Current Practice

As per the Business Licensing By-law, Schedule 21, Section 10, the Hess Village bar/nightclub operators “shall retain a minimum of 10 Special Duty Police Officers for the Hess Village Entertainment District each Thursday, Friday and Saturday from 11:00 p.m. to 4:00 a.m. beginning April 15 and ending November 15 each calendar year.” However, the decision regarding how many paid duty officers will be present is made by the HPS with input from the bar/nightclub operators. Each week the HPS contacts a representative of the Hess Village merchants to discuss the number of officers needed, taking into consideration the anticipated weather conditions since good weather generally results in larger crowds, and the number of establishments anticipated to be open, as some operate on a seasonal basis.

During the core of the season between the Victoria Day and Labour Day weekends, there are typically in Hess Village each Friday and Saturday night until 3:30 a.m.:

- eight (8) paid duty officers on four (4) hour shifts, paid for by the Hess Village merchants, including six (6) constables and two (2) sergeants. (HPS policy requires a 3:1 constable to sergeant ratio);
- one (1) communications dispatcher in the Village and three (3) mobile perimeter patrol officers, paid for by the HPS as recommended in 2009. One (1) officer patrols during a shift from 10 p.m. to 2 a.m. and the other two (2) officers patrol from midnight to 4 a.m.;
- up to eight (8) auxiliary officers (non-paid volunteers).

It is rare that paid duty officers are utilized on Thursday nights; for example, to accommodate all-ages or special events. They are requested on the occasional Sunday, more likely on a long weekend. The number of paid duty officers present in the District varies in the shoulder season, and prior to April 15 when requests for paid duty service have been made in January, February and March. For example, there were four (4) officers present on Friday April 1, 2011 and six (6) officers present on Saturday April 2, 2011.

The Business Licensing By-law allows for this flexibility in Schedule 21, Section 11:

“11. Notwithstanding section 10, the Chief of Hamilton Police Services, or his or her designate, may:

- (a) change the commencement date of April 15 or the ending date November 15 by giving 48 hours prior notice to each Hess Village Entertainment District licence holder;
- (b) suspend the requirement to retain Special Duty Police Officers for any day or time period where he or she decides that such Special Duty Police Officers are not required for public safety, nuisance control or public protection or where such Special Duty Police Officers are not available;
- (c) after consultation with the Issuer of Licences, increase or decrease the number of Special Duty Police Officers by giving 30 days prior written notice to each Hess Village Entertainment District licence holder.”

Use of Auxiliary Officers

In addition to the paid duty officers, auxiliary officers have been present in Hess Village and on perimeter patrol since 2006. The auxiliary officers are unpaid volunteers, but with uniforms that are very similar to those worn by the paid duty officers, which enhances the visibility of the police presence. The auxiliary officers also provide the police officers with greater opportunity to carry out enforcement activities. Rather than having to team two (2) paid duty officers together, a paid duty officer is able to team up with an auxiliary officer to patrol and enforce in Hess Village and the surrounding neighbourhoods in an effort to curb noise infractions, property damage, and other

offences. HPS policy dictates that auxiliary officers cannot be paired together or exceed the number of paid duty officers.

Administration Fee

An administration fee of 15% is part of the paid duty fee and is applied to all HPS paid duty contracts. The HPS sets its paid duty fee on a cost recovery basis, which pays for the salary of the paid duty co-ordinator position. In addition, a senior command officer reviews each application. In the case of Hess Village, administration of the Hess Village Paid Duty Program involves weekly co-ordination to determine which bars will be open, how many officers will be in place, and to pro rate the invoice data which is submitted by the paid duty co-ordinator to the City for billing.

Billing Procedure

In 2010, the City's Financial Services Division through Accounts Receivable began to issue invoices and collect payment for the Hess Village Paid Duty Program on behalf of the HPS. During the 2009 Hess Village Review consultation, the merchants stated a preference for monthly bills, noting for example, that they would receive, from the HPS each year in November, an invoice for the months of April through September. Invoices are now typically issued in the middle of the month following the month of service. The 15% administration fee is applied, and then 13% HST, consistent with all HPS Paid Duty contracts. The due date is one (1) month following the invoice date, following which interest is charged at two percent (2%) above the prime rate.

In 2011, the HPS and City Finance staff met to review the billing procedure to ensure that more detailed invoices are provided. The City relies on receiving the invoice details from the HPS. Prior to the invoices issued for service in October 2011, invoices had noted simply the total monthly earnings paid to the paid duty officers by the invoiced establishment, the HPS administration fee, and HST payable. Each invoice now includes an attachment that provides additional information for each night of service during the month:

- The number of paid duty officers and sergeants present in Hess Village, the number of hours, and hourly rates, to determine the total salary cost each night that is to be shared among the Hess Village merchants; and,
- The total capacity of all establishments who were open on the service date, as well as the invoiced establishment's individual capacity, to determine the pro-rated charge based on capacity, to which the HPS administration fee and then the HST are applied.

POLICY IMPLICATIONS

Use of Paid Duty Police Officers

Off-duty police officers are often hired to provide “paid duty” or “special event” service outside of the HPS’ regular patrol parameters. Paid duty policing is a cost that individuals and organizations take on with or without a legislated requirement when they are conducting legal activities that are known in advance to need increased police presence and enforcement. In the Hess Village Entertainment District, the bar/nightclub business licence holders have been required to take on the cost as a condition of their business licence. The municipal authority to legislate this requirement in Hess Village has been outlined previously in this Report.

There are other circumstances where the hiring of paid duty officers is also required by the City:

- At a licensing hearing, the City’s Licensing Tribunal may impose such a condition requiring a business to retain paid duty officers. The Tribunal is a sub-committee of Council that conducts hearings and adjudicates on whether a licence should be issued, refused, suspended, revoked or have conditions placed upon it.
- A film production company may be required to do so as a condition of their film permit from the Hamilton Film Office;
- Special event organizers may be required to do so as a condition of approved SEAT (Special Event Advisory Team) applications; for example, paid-duty officers may be required when alcohol will be sold to the general public or to ensure that road closures are safely maintained.

The use of paid duty officers can be voluntary and may include security at sporting events/concerts, weddings/banquets, parades. For example, the Hamilton Tiger-Cats traditionally hire 25 paid duty officers for home games against the rival Toronto Argonauts.

The use of paid duty officers is not unique to the City of Hamilton and the HPS. The HPS fees are comparable to other area police forces in Table 1 below.

Table 1. Sample Paid Duty Rates

Police Service	Rates
Hamilton	Constable - \$61.58/hr; Sergeant - \$71.43/hr; + 15% admin. fee; + 13% HST; minimum three (3) hours
Toronto	Constable - \$65/hr; Sergeant - \$73.50/hr; + 15% admin. fee; + 13% HST; minimum three (3) hours
Halton Region	Constable - \$84.49/hr; Sergeant - \$95.62/hr; includes 15% admin. fee and 13% HST; minimum three (3) hours
Niagara Region	Constable - \$78.50/hr; Sergeant - \$88.25/hr; includes 20% admin. fee; + 13% HST; minimum four (4) hours
Peel Region	Constable - \$67/hr; Sergeant - \$76/hr; + 15% admin. fee, 1.95% Employers Health Tax and 0.39% WSIB fee;

	+ 13% HST; minimum three (3) hours
Brantford	Constable - 1½ times regular hourly rate + 15% admin. fee; + 13% HST; minimum three (3) hours
Chatham-Kent	Constable - \$65/hr + 13% HST; minimum four (4) hours
Guelph	Constable - \$71/hr; Supervisor - \$79/hr; + 13% HST; minimum three (3) hours
London	Constable - \$61.47/hr; Sergeant - \$69.77/hr; + 10% admin. fee; + 13% HST; minimum three (3) hours

What is unique about the Hess Village Paid Duty Program is its systematic application through the Business Licensing By-law that sets out the grounds for the Program and requires each bar/nightclub within the Hess Village Entertainment District to retain and share the cost of paid duty officers. This approach ensures that adequate policing is provided for the District and distributes the cost among the contributing bar/nightclubs by size based on capacity, rather than having each establishment retain paid duty officers on an individual basis.

In the City of Toronto, for example, the use of paid duty officers in the Toronto Entertainment District Business Improvement Area is voluntary, except in instances where the Toronto Licensing Tribunal places a condition on an establishment's business licence that requires the hiring of paid duty officers from the Toronto Police Service. Otherwise, there are some bar/nightclubs that hire paid duty officers on their own, in addition to on-duty officers patrolling the area.

Land Use Policy and Zoning in Hess Village

The future land use and planned function of the Hess Village area is set out in the Downtown Hamilton Secondary Plan, which applies four (4) land use designations to the Hess Village Entertainment District, supported by the implementing Zoning By-law 05-200.

1. Specialty Commercial

Most of the Hess Village Entertainment District is subject to Specialty Commercial policies which identify Hess Village as one of two "key dining and entertainment areas in the Downtown." (The other key area is King William Street). The Plan establishes the following vision for the area: "Hess Village will continue to be primarily a dining and entertainment area with active public spaces and a pedestrian scale. Other uses such as office, limited retail and residential will be accommodated provided the primary role of the area is maintained." The policies anticipate growth in Hess Village, directing new development to respect the existing built form and character of the area, while recognizing the variety of building types located there. The designation extends to the east of the Hess Village Entertainment District as defined in the Business Licensing By-law, along both sides of George Street to Bay Street. The Specialty Commercial Area is zoned D3, Downtown Mixed Use, which permits restaurants and commercial entertainment uses, among other uses.

2. Mixed Use

The Mixed Use designation applies to future development within the Hess Village Entertainment District along Main Street between Hess Street and Caroline Street, currently a parking lot. It is intended to accommodate residential uses and commercial uses that are compatible with and will not detract from residential development. This area is also zoned D3, Downtown Mixed Use.

3. Prime Retail Streets

The Prime Retail Streets designation applies to properties along King Street West as well as a few properties within Hess Village (i.e. - 11, 13 and 14 Hess Street South, and 12 Caroline Street South). In this area, ground floors are to be predominately occupied by street oriented commercial uses, with upper floors designated for a mix of uses including office commercial, residential and live/work space. These properties are zoned D2, Downtown Prime Retail Streets, which also permits restaurants and commercial entertainment uses, among other uses.

4. Public Open Space

The Secondary Plan envisions a future park at the southeast corner of Hess Street and King Street, which is currently Municipal Parking Lot No. 74 (263 King Street West). The property is zoned P4, Open Space.

RELEVANT CONSULTATION

This Report has been prepared in consultation with the Parking and By-law Services Division, Legal Services, Hamilton Police Service, and bar operators and neighbourhood representatives through the Hess Village Community Liaison Committee. The value and continued presence of paid duty police is recognized and supported; however, the increasing cost and fairness with respect to who contributes is a concern. Some want the cost shared to a greater extent, recognizing the cultural significance of Hess Village; others question why taxpayers via the HPS/City should foot the bill for additional policing that may be required/caused by the District establishments. The Durand Neighbourhood Association will not support any recommendation that would decrease the number of Paid Duty officers in Hess Village nor will it support any financial arrangement that does not have the Hess Village bar and restaurant owners paying at least 50% of the cost of the Paid Duty program.

ANALYSIS / RATIONALE FOR RECOMMENDATION

(include Performance Measurement/Benchmarking Data, if applicable)

Paid Duty Program Cost to Merchants

- In 2010, the invoices billed to 17 businesses totalled \$123,968, when paid duty officers were present in Hess Village from the beginning of April to the end of October.

- In 2011, the paid duty invoices billed to 15 businesses totalled \$188,765, for service from the second weekend in January to October 29.
- To compare equivalent time periods in each year, the paid duty invoices for April through October in 2011 totalled \$164,265, accounting for an increase of \$40,296 between 2010 and 2011.

Table 2.

Total Hess Village Entertainment District Paid Duty Invoices by Month, 2010 and 2011

Month	2010	2011	Change
JANUARY	0.00	3,744.35	3,744.35
FEBRUARY	0.00	8,600.81	8,600.81
MARCH	0.00	12,155.20	12,155.20
APRIL	19,740.06	23,478.19	3,738.13
MAY	17,501.77	19,749.03	2,247.26
JUNE	21,348.09	18,972.46	-2,375.63
JULY	19,768.06	20,734.63	966.57
AUGUST	21,167.40	28,510.08	7,342.68
SEPTEMBER	18,894.72	26,902.53	8,007.81
OCTOBER	5,548.73	25,918.07	20,369.34
Subtotal JAN-MAR	0.00	24,500.36	24,500.36
Subtotal APR-OCT	123,968.83	164,264.99	40,296.16
Total JAN-OCT	123,968.83	188,765.35	64,796.52

Factors influencing the increased total cost between 2010 and 2011 include:

- The amount of tax added to the bills increased with the introduction of the 13% Harmonized Sales Tax (HST) in July 2010, replacing the 5% Goods and Services Tax (GST).
- The hourly rate of the paid duty officers increased, from \$54.71 to \$59.93 for constables and from \$63.47 to \$69.52 for sergeants. (In 2012 the respective rates are \$61.58 and \$71.43.)
- Paid duty officers were present in Hess Village prior to the April 15 start date for the season defined in the By-law, at the request of various merchants in January, February and March 2011.
- The number of officers present may vary, depending on weather, particularly in the shoulder season outside of the Victoria Day to Labour Day weekends, and depending on which establishments are open.

The number of establishments contributing decreased from 17 in 2010 to 15 in 2011, while one bar was closed and another location converted to a new food premises without alcohol service. This change decreased the total capacity figure used to determine each contributing establishment's share of the cost; hence the total cost was shared by fewer businesses.

Table 3.
Establishments with an AGCO Liquor Licence in the Hess Village Entertainment District

Establishment	Address	AGCO capacity	2010 Paid Duty Bill	2011 Paid Duty Bill
Viso/Blu Martini	11 HESS ST S	56	\$440.92	closed
The Masque/Village Jazz Club	13 HESS ST S	179	\$4,801.97	\$4,962.94
Rok Bar	15 HESS ST S	410	\$9,247.23	\$17,568.71
Lazy Flamingo	19 HESS ST S	237	\$5,258.02	\$8,635.17
Sizzle	25 HESS ST S	731	\$19,610.20	\$32,205.87
Koi	27-29 HESS ST S	632	\$16,954.38	\$27,844.29
Frat House (now Hush)	33 HESS ST S	174	\$4,667.83	\$7,487.32
Elixir (now closed, liquor licence expired)	18-20 HESS ST S	394*	\$10,569.66	\$12,445.19
Gown & Gavel	24 HESS ST S	543	\$14,566.84	\$23,501.72
Diavolo	32 HESS ST S	234	\$6,277.41	\$10,041.35
Che Burrito	38 HESS ST S	143	\$1,877.86	\$2,984.78
Side Bar	96 GEORGE ST	97	\$2,602.20	\$4,215.02
Absinthe on George (now Frat House)	116 GEORGE ST	126	\$3,058.25	\$3,946.12
Ceilidh House Irish Pub	107 GEORGE ST	278	\$7,457.79	\$12,247.95
The Urban Tavern on George	109 GEORGE ST	80	\$2,146.12	\$2,232.76
Garcia's (Smoke's Poutinerie in 2011)	112 GEORGE ST	104*	\$4,097.28	n/a
Viva	115 GEORGE ST	438	\$10,334.87	\$18,446.16
Total Paid Duty Bills			\$123,968.83	\$188,765.35
Current Total Licensed Capacity * excludes 112 George St as Smoke's Poutinerie does not provide alcohol service that would require a liquor licence * excludes Elixir, closed, liquor licence subsequently expired		4,358		

In 2012, there are 15 establishments in the Hess Village Entertainment District with a current liquor licence issued by the Alcohol and Gaming Commission of Ontario. The combined liquor licence capacity of these establishments contributing to the paid duty program is 4,358 persons. It should be noted that the Elixir Nightclub and Lounge is currently closed for renovations and its licence has subsequently expired; otherwise, the total capacity would reach 4,752.

Benefits of Hess Village

Hess Village and other venues that contribute to Hamilton's offering of arts and entertainment enhance the City's vibrancy and its appeal to residents as well as tourists and other visitors. Such districts support tourism (e.g. live music venues in particular) and can promote an image of the City to its potential visitors.

As noted earlier, Hess Village has been identified in City policy as a specialty commercial area with a key dining and entertainment focus in the Downtown with active spaces. It is, therefore, expected that the District will attract high volumes of people to

many of the businesses encouraged to locate there, which in turn may warrant closer attention from the police and municipal law enforcement to help manage and control the negative impacts that may otherwise result.

The fifteen licensed establishments currently operating employ approximately 225 people, based on the 2012 Downtown Employment Survey. Thirteen bars reported to the survey a total of 215 jobs, including 45 full-time and 170 part-time. In addition, there are 248 jobs held at other businesses located within the Hess Village Entertainment District, including 205 full-time and 43 part-time.

The properties where the bar/nightclubs are located (including Elixir) are assessed at \$5,919,240, due to provide \$202,846 in property taxes in 2012 (including \$133,060 municipal portion and \$69,787 education portion).

Future Cost Estimate

The total annual cost and the amount billed to individual establishments is dependent on the number of officers present, the days/hours of service, and the number and size of establishments contributing.

Following the current By-law to the letter would result in a cost of over \$377,000 for the Hess Village Paid Duty Program between April 15 and November 15 in 2012:

As per By-law - (i.e. "a minimum of 10 Special Duty Police Officers for the Hess Village Entertainment District each Thursday, Friday and Saturday from 11:00 p.m. to 4:00 a.m. beginning April 15 and ending November 15")						
	Number of Officers	Rate/hour	Hours	Nights	Weekends	Charge
Sergeant	3	\$ 71.43	5	3	30	\$ 96,430.50
Constable	7	\$ 61.58	5	3	30	\$193,977.00
Subtotal						\$290,407.50
15 % Admin. Fee						\$ 43,561.13
Subtotal						\$333,968.63
13% HST						\$ 43,415.92
Total						\$377,384.55

This amount does not account for additional cost if paid duty requests are made outside of the mandated season, nor does it factor in decreased costs if the full complement of officers is not installed, as per current practice.

Future cost, more in keeping with the current practice in terms of number of officers and timing, is considerably less, at \$159,790:

SUBJECT: Hess Village Paid Duty Program (PED12142) (Ward 2) - Page 19 of 25

As per Typical Practice - 8 officers, 11:30 p.m. to 3:30 a.m. (4 hours), Friday and Saturday						
	Number of Officers	Rate/hour	Hours	Nights	Weekends	Charge
Sergeant	2	\$ 71.43	4	2	30	\$ 34,286.40
Constable	6	\$ 61.58	4	2	30	\$ 88,675.20
Subtotal						\$122,961.60
15% Admin. Fee						\$ 18,444.24
Subtotal						\$141,405.84
13% HST						\$ 18,382.76
Total						\$159,788.60

Again, this amount does not account for additional cost if paid duty requests are made outside of the mandated season, nor does it factor in decreased costs if less than eight (8) officers are present.

The HPS has advised that, in keeping with current practice, a minimum of eight (8) paid duty officers is required within Hess Village, in addition to the one (1) communications dispatcher and three (3) mobile perimeter patrol officers. Further, the HPS advises that the use of volunteer auxiliary officers cannot substitute for paid duty officers. Restoring the Hess Village Paid Duty Program to the cost sharing model utilized prior to the 2009 Hess Village Review (i.e. a 50-50 split of eight (8) officers), without compromising the number of officers HPS determines to be appropriate, would require annual funding from a source other than the Hess Village merchants.

Although the Hess Village merchants now contribute 100% of the fees for up to eight (8) paid duty officers (instead of four (4)), it is the position of the HPS that the full cost of providing the Hess Village Paid Duty Program continues to be shared as the HPS incurs costs specific to Hess Village over and above the paid duty fees for the eight (8) officers. These costs include one (1) communications dispatcher in the Village and three (3) mobile perimeter patrol officers, and totalled \$65,860 from April 15 to October 29 in 2011. In addition, the mounted unit and the ACTION team may also be present in the Entertainment District under HPS' regular patrol parameters. There were 301 Central uniform patrol calls for service to Hess Village in 2011. Additional police statistics are provided in Appendix "B" to Report PED12142.

The recommended cost sharing option would recognize the HPS contribution of the communications dispatcher and mobile perimeter patrol officers. A 50-50 split of twelve HPS personnel would have the Hess Village merchants fund up to six (6) paid duty officers (instead of eight (8)), with the cost of two (2) officers funded by HPS, in addition to the dispatch and mobile officers. The cost of two (2) paid duty constables, based on the 2012 hourly rate, serving four (4) hour shifts on Friday and Saturday nights, from April 15 to November 15 (i.e. - 30 weekends), would amount to \$38,411. This estimate does not include fees for paid duty officers that may be present in Hess Village outside of the April to November season.

2 officers, 11:30 p.m. to 3:30 a.m. (4 hours), Friday and Saturday						
	Number of Officers	Rate/hour	Hours	Nights	Weekends	Charge
Constable	2	\$ 61.58	4	2	30	\$ 29,558.40
15% Admin. Fee						\$ 4,433.76
Subtotal						\$ 33,992.16
13% HST						\$ 4,418.98
Total						\$ 38,411.14

The request would require the Police Services Board to accommodate the additional cost in its future budget submissions, and would have implications for the overall Hamilton Police Service budget and, in turn, the net levy.

It is also recommended that Parking and By-law Services Division amend Schedule 21 of the Business Licensing By-law to more accurately reflect current practice in the Hess Village Entertainment District, including the specified minimum number of Special Paid Duty Officers, days and time of service as outlined in this Report.

The option to request the HPS to fund four (4) of eight (8) officers, in addition to the dispatch and mobile officers, is provided in the Alternatives for Consideration section – see page 22.

Other Funding Sources Considered

Ticket Revenue

The feasibility of using fine revenue from tickets issued to patrons of Hess Village by the HPS and municipal law enforcement, to offset the cost of the Paid Duty Program was considered. However, both the HPS and City municipal law enforcement staff maintain that there should be no correlation between fine monies collected and that going toward paying for the paid duty officers. Enforcement needs to be unbiased and the issuance of tickets tied to the funding of the Program could be perceived as a conflict.

Parking Revenue

There are parking meters located in the Hess Village Entertainment District. The City shares part of the revenue obtained through parking meters with some of the Business Improvement Areas (BIAs) in which the meters are located. The collective amount distributed is based on ten percent (10%) of the Hamilton Municipal Parking System's (HMPS) net operating surplus on an annual basis to a maximum of \$167,280. All other parking surpluses are returned to the City's general levy to offset tax increases.

Section 106(1) of the Municipal Act prohibits a municipality from assisting directly or indirectly any manufacturing business or other industrial or commercial enterprise through the granting of bonuses for that purpose. Therefore, the granting of monies to the Hess Village merchants from fine/fee/parking revenue would be prohibited. The City

can share the Hamilton Municipal Parking System's annual net operating surplus with Hamilton's BIAs because Subsection 208(1) of the Municipal Act authorizes the City to annually raise the amount required for the purposes of BIAs. Although Section 208(2) goes on to allow for a special BIA levy, other sources of funding such as the HMPS's surplus may be used. In accordance with Section 204(1) of the Municipal Act, all amounts raised must be used by the BIAs to "a) oversee the improvement, beautification and maintenance of municipally-owned land, buildings and structures in the area beyond that provided at the expense of the municipality generally; and, b) promote the area as a business or shopping area." This requirement is ensured through the BIAs' submission of annual financial statements and the Policy and Procedure for Revenue Sharing of HMPS' Net Annual Operating Surplus with Hamilton's BIAs, which outlines eligible expenditures. The Policy's stated intent is to supplement BIA annual budgets; it is not intended to replace or reduce their annual budgets. The payment of paid duty officers is not an eligible expense.

Community Improvement Program Funding

The Hess Village Entertainment District is situated within the Downtown Hamilton Community Improvement Project Area. The community improvement provisions of the Planning Act (Section 28) provide an exception to the bonusing prohibition in Section 106(1) of the Municipal Act. However, the eligible community improvement costs for loans and grants as defined in Section 28(7.1) of the Planning Act include "costs related to environmental site assessment, environmental remediation, development, redevelopment, construction and reconstruction of lands and buildings for rehabilitation purposes or for the provision of energy efficient uses, buildings, structures, works, improvements or facilities." Policing costs are not an eligible expense. Otherwise, the District properties may be eligible for community improvement programs including commercial façade improvement grants, the Hamilton Downtown Property Improvement Grant Program, Hamilton Downtown Multi-Residential Property Investment Program, Commercial Corridor Housing Loan and Grant Program, Hamilton Downtown Office Tenancy Assistance Program and the Hamilton Heritage Property Grant Program.

Downtown Capital Block

Although the City did provide funding from the Downtown capital block for two (2) mobile perimeter patrol officers in 2007 and 2008, it is not recommended that the City provide similar funds to the Paid Duty Program in the future. The capital funds were used for a pilot project to determine the value of perimeter patrols with the intention that HPS operating budget would fund the service if its continuation was warranted. The Downtown capital block should not be used to provide sustainable operating funds for policing on an ongoing basis. As noted previously in Report PED12142, the HPS began funding the perimeter patrols associated with Hess Village in 2009. Funding for police services comes from the municipal property tax base via the Police Services Board's annual budget recommendation to Council, and provincial/federal funding to police.

Other City Grants (Community Partnership Program)

Community Partnership Program grants are not applicable to the Hess Village merchants as all program applicants reviewed by Council's Grants Sub-committee must be registered charitable or non-profit organizations, as per Sections 106 and 107 of the Municipal Act, 2001.

ALTERNATIVES FOR CONSIDERATION:

(include Financial, Staffing, Legal and Policy Implications and pros and cons for each alternative)

1. Request a greater HPS cost share

Council can amend recommendation (a) to request the Hamilton Police Services Board include in the overall Hamilton Police Service budget the cost of four (4) paid duty constables for Hess Village Paid Duty Program cost sharing, rather than two (2). The cost of four (4) paid duty constables, based on the 2012 hourly rate, serving four (4) hour shifts on Friday and Saturday nights, from April 15 to November 15 (i.e. - 30 weekends), would amount to \$76,822. This estimate does not include fees for paid duty officers that may be present in Hess Village outside of the April to November season.

4 officers, 11:30 p.m. to 3:30 a.m. (4 hours), Friday and Saturday						
	Number of Officers	Rate/hour	Hours	Nights	Weekends	Charge
Constable	4	\$ 61.58	4	2	30	\$ 59,116.80
15% Admin. Fee						\$ 8,867.52
Subtotal						\$ 67,984.32
13% HST						\$ 8,837.96
Total						\$ 76,822.28

This option would require the Police Services Board to accommodate a greater additional cost in its future budget submissions, and would have implications for the overall Hamilton Police Service budget and, in turn, the net levy. It would return to the 50-50 split of eight (8) officers in effect until 2009, with four (4) paid for by the Hess Village merchants and four (4) paid for by the HPS, but does not account for other HPS costs specific to Hess Village.

2. Expanding the Pool of Contributors to the Paid Duty Program

The following alternatives could be explored to reduce the cost to the current contributors by spreading the cost out further among those who benefit from and/or contribute to the crowds associated with the District, including establishments without a liquor licence. They could be implemented independent of whatever cost sharing arrangement between the HPS and the Hess Village merchants is reached.

Other Potential Contributors within the Existing District Boundary

There are 47 properties within the defined boundary of the Hess Village Entertainment District, and listed in Appendix “C” to Report PED12142. In addition to restaurants, bars and nightclubs, other uses include small-scale offices, medical/dental services, salons, and residential.

As previously noted in Table 2, there are 15 establishments with a current liquor licence issued by the Alcohol and Gaming Commission of Ontario. Other businesses identified that can be considered to benefit from their location within the District and stay open late in order to profit from the associated crowds include:

- three (3) food premises that do not have a liquor licence and, therefore, do not operate as a bar/nightclub (Smoke’s Poutinerie, Tim Horton’s and Vida La Pita);

Establishment	Property Address	Building Code/Fire Code Capacity/Seats
Smoke’s Poutinerie	112 George St.	14
Vida La Pita	215 King St. W.	24
Tim Horton’s	235 King St. W.	64

- Big Bee convenience store at 215 King St. W.
- Hot dog carts

These businesses benefit from the presence of the paid duty officers. The HPS reports its officers often have to deal with problems including noise, litter, vandalism and violence in the parking areas of Tim Hortons, Vida La Pita and Big Bee on King Street, west of Caroline Street. Smoke’s Poutinerie, located on George Street between Hess and Queen Streets, and hot dog carts, attract crowds within the core of Hess Village at closing time, slowing the dispersal of patrons from the Village.

Potential Contributors Abutting the Existing District Boundary

It has been suggested at the Hess Village Community Liaison Committee that the boundaries of the Hess Village Entertainment District be re-examined in order to consider establishments on the periphery that are catering to the spill over crowd and so perhaps should contribute toward the cost of the policing.

There are 48 commercially zoned properties adjacent to Hess Village, as indicated on the map in Appendix “D” to Report PED12142. They include:

- 29 properties in the D2 Zone to the north of King Street West between Queen and Caroline Streets;
- Three (3) properties on the east side of Caroline Street South between King and Main Streets;
- 14 properties in the D3 Zone to the south of Main Street West between Queen and Caroline Streets; and,

- Two (2) properties on the west side of Queen Street South between King and Main Streets.

At the present time, there are three (3) food premises operating as bar/nightclubs with a combined AGCO issued liquor licence capacity of 382 in the periphery area. Such establishments would be required to contribute to the Paid Duty Program in the event that the Hess Village Entertainment District boundary, as defined in the Business Licensing By-law, is expanded to the adjacent properties. The total capacity contributing to the Program would increase by 7.4% (from 4,752 to 5,134), which would spread the share paid by the bar/nightclub operators.

Establishment	Property Address	AGCO Licensed Capacity (2012)		
		Indoor	Outdoor	Total
Door's Pub	56 Hess St. S.	84	87	171
Rebel's Kilt	298 King St. W.	51	0	51
Casbah	306 King St. W. (14 Queen St. N.)	160	0	160
Total		295	87	382

Other establishments with an AGCO issued liquor licence but do not operate as a bar/nightclub in the periphery area include:

Establishment	Property Address	AGCO Licensed Capacity (2012)		
		Indoor	Outdoor	Total
Kampai Restaurant	236 King St. W.	51	0	51
Sunrise Family Restaurant	242 King St. W.	65	0	65
Papagayo Restaurant	246 King St. W.	59	0	59
La Luna	306 King St. W.	171	0	171
Modern India Restaurant	163 Main St. W.	250	0	250
Total		596	0	596

Other businesses that can be considered to benefit from their proximity to Hess Village and stay open late in order to profit from the associated crowds are listed below. The HPS reports its officers often have to deal with problems in the plaza at 54 Queen Street South (at Main Street West). These food premises and convenience stores benefit from the presence of the paid duty officers.

Establishment	Property Address	Building Code/Fire Code Capacity
Tropicanadian Shawarma Grill	226 King St. W.	12
Bastoni's Shawarma and Grill	234 King St. W.	9
Hess Village Convenience	266-268 King St. W.	n/a
Queen's Subs	54 Queen St. S	take-out
Hess Village Pizza & Wings & Shawarma	54 Queen St. S	take-out
Select Convenience	54 Queen St. S	n/a

An amendment to the Business Licensing By-law would be necessary in order to apportion a share of the Paid Duty Program cost to those food premises/food service

vehicles that benefit from the Program but do not operate as bar/nightclubs, within or abutting the current Hess Village Entertainment District boundary. The amendment would need to outline the grounds for requiring the specified businesses to retain paid duty officers, and allocate the cost sharing between businesses where capacity is not a factor.

CORPORATE STRATEGIC PLAN (Linkage to Desired End Results)

Focus Areas: 1. Skilled, Innovative and Respectful Organization, 2. Financial Sustainability, 3. Intergovernmental Relationships, 4. Growing Our Economy, 5. Social Development, 6. Environmental Stewardship, 7. Healthy Community

Growing Our Economy

- ◆ Competitive business environment
- ◆ An improved customer service

APPENDICES / SCHEDULES

Appendix "A" to Report PED12142 - Correspondence from the Minister of Community Safety and Correctional Services regarding funding for additional police officers for the Hamilton Police Service, July 30, 2009

Appendix "B" to Report PED12142 - Hamilton Police Service Statistics

Appendix "C" to Report PED12142 - List of Current Property Uses

Appendix "D" to Report PED12142 - Hess Village Entertainment District Map

AUG 06 2009

Council
- 1 - 17 - via

Ministry of Community Safety
and Correctional Services

Ministère de la Sécurité communautaire
et des Services correctionnels

Appendix "A" to Report PED12142

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Office of the Minister

Bureau du ministre

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5.1

JUL 30 2009

CU09-02333

His Worship Fred Eisenberger
Mayor
City of Hamilton
230 – 77 James Street North
Hamilton ON L8R 2K3

Dear Mayor Eisenberger:

Thank you for your correspondence, which includes information regarding funding for additional police officers for the Hamilton Police Service. I am pleased to respond and apologize for the delay.

The Ministry of Community Safety and Correctional Services remains committed to improving community safety and policing in communities throughout the province.

To demonstrate this commitment, we are supporting Ontario's policing community by putting resources where they are needed. Through the Safer Communities – 1,000 Officers Partnership programs, the Ontario government is designating 500 officers for deployment to meet community priorities, including street patrols, working with schools and enhanced traffic enforcement. We are also continuing to fund the Community Policing Partnerships program. Through these initiatives, Hamilton Police Service has received over \$8.81 million in funding for police resources since 2003.

In addition, in 2006, the federal government announced its intention to hire 2,500 new front-line police officers as part of their election platform under the Police Officers Recruitment Fund. Ontario's share is \$156 million and, through this fund, Hamilton is receiving \$495,000 annually over five years.

Since October 2003, the ministry has also allocated \$165,000 in funding to assist Hamilton police service in addressing the serious issue of drinking and driving through the Reduce Impaired Driving Everywhere (R.I.D.E.) grant program. Additionally, for 2009-2010, the ministry has maintained funding for the R.I.D.E. grant program at \$2.4 million. This significant funding increase will enhance public safety through additional spot checks, intensifying the number of charges laid and motorists' perceived risk of apprehension.

.../2

His Worship Fred Eisenberger
Page two

As you know, funding for police services comes from the municipal property tax base. Under section 39 of the *Police Services Act*, the police services board submits to the municipal council operating estimates showing the amounts that will be required to maintain the police service. The council will then establish an overall budget for the board.

I trust this information will be of benefit to you. Again, thank you for writing.

Sincerely,

A handwritten signature in cursive script that reads "Rick Bartolucci".

Rick Bartolucci, MPP, Sudbury
Minister

Hamilton Police Service Statistics – Hess Village Entertainment District

Hess Village Paid Duty Officers, April 1 – July 17, 2010

Criminal arrests	24
CDSA events	2
Liquor Licence Act violations	196
Liquor Licence Act violations by bars	2
Highway Traffic Act violations	23
Trespass to Property Act violations	10
Urinate in public infractions	115
Parking infractions	9
Trespassed persons	9
Total	390

Hess Village Paid Duty Officers, January 14 – October 31 , 2011

Criminal arrests	34
CDSA events	15
Liquor Licence Act violations	157
Liquor Licence Act violations by bars	4
Highway Traffic Act violations	27
Safe Streets Act violations	2
Trespass to Property Act violations	15
Urinate in public infractions	89
Parking infractions	21
Total	364

Central Uniform Patrol Calls for Service to Hess Village, January 1 to December 31

	2009	2010	2011
Bar disturbance	55	51	53
Street disturbance	135	106	118
Disturbance premise	33	41	28
Weapons call	6	9	5
Assault call	19	32	44
LLA	30	45	53
Total	278	281	301

Calls for service not included are noise complaints, impaired driver, suspicious circumstances, breach of peace, CDSA and sexual assault.

Source: Hamilton Police Service

Hess Village Entertainment District – Property By Primary Use

<i>Establishments with Liquor Licences</i>	<i>Property Address</i>
Viso	11 Hess St. S.
The Masque	13 Hess St. S.
Rok Bar	15 Hess St. S.
Lazy Flamingo	19 Hess St. S.
Sizzle	25 Hess St. S.
Koi	27-29 Hess St. S.
Hush	33 Hess St. S.
Gown & Gavel	24 and 30 Hess St. S.
Diavolo	32 Hess St. S.
Ché Burrito	38 Hess St. S.
Side Bar	96 George St.
Frat House (relocated from 33 Hess St.)	116 George St.
Ceilidh House	107 George St.
Urban Tavern on George	109 George St.
Viva	115 George St.
Elixir (currently not operating, liquor licence subsequently expired)	18 and 20 Hess St. S.
<i>Other Food Premises/Convenience Stores</i>	
Smoke's Poutinerie	112 George St.
Big Bee Convenience/Vida La Pita	215 King St. W.
Tim Horton's	235 King St. W.
<i>Other Commercial/Office</i>	
Harvey Katz Law Office	14 Hess St. S.
Offices (Pocnic Realty Advisors, KTX Insurance)	34-36 Hess St. S.
Dental offices	206 Main St. W.
Medical offices	220 Main St. W.
Pipeline Studios	222 Main St. W.
Dental offices	17 Queen St. S.
Staybridge Suites Hotel	20 Caroline St. S.
Construction office for Staybridge Suites Hotel	72 George St.
Crush Media	76 George St.
Village Spa in Hess	78 George St.
Vacant commercial/office	100 George St.
Vacant commercial/office	102 George St.
Office	104 George St.
Vacant commercial/office	105 George St.
Glanville Chartered Accountant/Real Estate	108 George St.
Challé Design Consultants	110 George St.
Giorgio's Salon (west half of 116-118 George St.)	118 George St.
<i>Residential</i>	
Residential	241-243 King St. W.
Aubrey Jones Seniors Apartments	255 King St. W.
Chantilly Apartments	285 King St. W.
Residential	74 George St.
<i>Pending Residential</i>	
107 unit condo approved on site of All Saints Church and Rectory	15 Queen St. S.
29 unit redevelopment of the fire-damaged building at King and Hess Streets	275 King St. W.
<i>Parking Lots</i>	
Parking lot	12 Caroline St. S.
Parking lot	166 and 190 Main St. W.
Municipal lot at King and Hess Streets designated/zoned for a park	263 King St. W.



Legend

-  Properties in and surrounding Hess Village Entertainment District
-  Hess Village Entertainment District Boundary

Hess Village Entertainment District & Surrounding Properties

Date:
February 2012



Not To Scale



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