

SUBJECT: Burlington Canal Pier – Public Access and Maintenance Agreement Update

TO: Committee of the Whole

FROM: Public Works
Roads, Parks and Forestry

Report Number: PWS-08-25

Wards Affected: Ward 1

Date to Committee: January 13, 2025

Date to Council: January 28, 2025

Recommendation

Authorize the Commissioner, Public Works to take all steps necessary to approve and enter into an agreement with Hamilton-Oshawa Port Authority (HOPA), and His Majesty the King in Right of Canada as represented by the Minister of Public Works and Government Services Canada (PWGSC), the Minister Natural Resources (MNR), or such other Minister as the federal government directs, to construct improvements, maintain and access the Burlington Pier, with content satisfactory to Director of Roads, Parks and Forestry and form satisfactory to the Commissioner, Legal and Legislative Services/City Solicitor as outlined in public works report PWS-08-25; and

Authorize the Mayor and City Clerk to execute agreements to give effect to the recommendations approved in this report, with content satisfactory to the Director of Roads, Parks and Forestry, and in a form satisfactory to the Commissioner, Legal and Legislative Services/City Solicitor.

Executive Summary

In September 2022, Report ES-43-22 authorized staff to proceed with negotiating an agreement with the Hamilton-Oshawa Port Authority for public use, municipal access, and ongoing maintenance of the Burlington Canal shipping pier. Staff have met regularly with the Hamilton-Oshawa Port Authority, along with the City of Hamilton, to determine the conditions and terms necessary for such an agreement.

Through these discussions it was determined that Hamilton-Oshawa Port Authority, Public Works and Government Services Canada, and Ministry of Energy and Natural Resources have stewardship over different parts of the Burlington Pier. Accordingly, it was determined that three separate agreements are necessary to allow access for both capital improvements and ongoing maintenance of the pier by the city.

In addition to maintenance operations, proposed capital improvements were discussed with both Hamilton-Oshawa Port Authority and Public Services and Procurement Canada as ultimately both agencies are responsible for the state of good repair of pier infrastructure and their approval is necessary to ensure any conflict with lift bridge operations is avoided. Proposed improvements include pier resurfacing, the installation of barrier railings, benches, and waste receptacles.

The recommendations of Report PWS-08-25 provide staff the direction needed to proceed with finalizing access agreements and implement pier improvements with the intention to have the Piers open for use mid-2025.

Purpose of report:

- Provide a status update on access and maintenance agreement negotiations with the Hamilton Oshawa Port Authority for public use and ongoing maintenance of the Burlington Lift Bridge Canal pier; and
- Authorize staff to take all steps necessary to approve and enter into agreements with the appropriate authorities to access, construct improvements, and maintain the Burlington Pier.

Key findings:

- The Burlington Pier is under stewardship of Hamilton-Oshawa Port Authority, Public Works and Government Services Canada, and the Ministry of Natural Resources.
- HOPA is generally responsible for the pier that extends into the lake and PWGSC and MNR are generally responsible for the remaining sections of the pier.

Implications:

- Authorization is required to enter into the agreements necessary for pier improvements to facilitate public access to the Burlington Pier.
- Legal, Realty, and administrative resources will be required to negotiate and prepare the necessary agreements between City of Burlington, HOPA, PWGSC and MNR.

Recommendation Report

Background

The Burlington Canal Piers (both Burlington and Hamilton sides) are held in federal ownership. Both piers have a long history of recreational use by the public for walking, cycling, and watching the ship activity. In the fall of 2020, Transport Canada formally advised both the City of Burlington and the City of Hamilton of their intention to restrict public access to the portion of the piers projecting into Lake Ontario. Transport Canada indicated that the piers were intended to be used solely for the commercial use of the channel for lift bridge operation, rather than for recreational public access. In December 2021, Transport Canada installed a lockable gate on both piers to restrict public access, in order to mitigate risks associated with recreational usage. A gate for the same purpose was also installed on the Hamilton pier. Both gates have remained closed since their installation.

Recognizing the strong desire to maintain public access, both cities have worked closely with Transport Canada to determine a strategy for the re-opening. Transport Canada has agreed in principle that the pier could be re-opened if each city assumes liability and ongoing minor maintenance responsibilities for recreational use of the pier.

In July 2021, a risk assessment of both piers was prepared by the City of Hamilton providing an overview of identified risks and recommendations for improvements to mitigate risk to public safety. The risks identified include trip hazards related to uneven surfacing, water hazards due to the unencumbered pier edge, requirements for rescue equipment, and other issues.

In July 2022, Transport Canada transferred responsibilities for management of the piers to HOPA. Accordingly, both cities were now required to work directly with HOPA to negotiate and develop a formal public access and ongoing maintenance agreement. A similar agreement was developed between the City of Oshawa and HOPA and was to be used as a basis for developing the terms of an agreement between HOPA and the City of Burlington.

In September 2022, Council authorized the City Manager to proceed with negotiations/execution of an agreement with the HOPA for public use and ongoing maintenance of the Burlington Bay Canal shipping pier under terms as generally outlined in report [ES-43-22](#).

Several meetings have taken place, both with HOPA, PWGSC, and with City of Hamilton staff since October 2022, inclusive of site meetings and condition assessment walks. Clarity of ownership for the various land parcels necessary for site access has been problematic and was a major contributor to the delay's experienced in finalizing the agreement details.

Analysis

The Burlington Pier is under stewardship of HOPA, PWGSC, and MNR. HOPA is generally responsible for the pier that extends into the lake and PWGSC and MNR are generally responsible for the remaining sections of the pier. Please refer to Appendix A for a general concept plan of proposed pier improvements and extent of work. Accordingly, three agreements are required with each agency to construct improvements, maintain, and access the Burlington Pier.

The pier capital improvements and ongoing pier maintenance proposed by the City will be subject to approval of both HOPA and PWGSC as, ultimately, both agencies are responsible for the state of good repair of pier infrastructure and for lift bridge operation. In addition, both agencies have plans for future improvements and rehabilitation of pier and lift bridge infrastructure which may occasionally restrict public and municipal access.

With respect to proposed Burlington Pier improvements, staff are recommending the installation of a barrier railing along the pier perimeter to enhance safety for public use. The barrier railing was a recommendation arising out of a Risk Management report prepared by City of Hamilton, in analysis of both the Hamilton and Burlington pier. HOPA has advised that it will not fund the railings proposed. Instead, HOPA has committed to either installing a bullnose rail (ankle height) or contribute the funds it would have spent on that bullnose rail towards the City's installation of a pedestrian railing. In addition to this contribution, HOPA has undertaken minor surface repairs to address trip hazards to their portion of the pier and has also installed marine access ladders. As part of pier improvement works, the City also intends to resurface the sections of pier under PWGSC and MNR control to provide suitable walking surface conditions.

Recommendation Details

Historically, the public has enjoyed access to the two canal piers extending into Lake Ontario, that are on federal lands and managed by Transport Canada. In the past, there has been no formal agreement between Transport Canada and the City of Burlington or the City of Hamilton regarding access.

When Transport Canada advised both cities of their intention to install gates and restrict public access to the piers, one option would have been to accept this restriction. However, as access has long been enjoyed and appreciated by the public, preserving and enhancing this experience is the preferred option and is consistent with principals of the proposed Beachway Master Plan. As such, a dialogue was established with federal political representatives through the Mayor's Office, in partnership with Halton Region and City of Hamilton staff, in order to work with Transport Canada and HOPA to establish an arrangement that would seek to permit

the continued public access to the piers while at the same time addressing any safety issues and concerns.

The report therefore recommends that staff be authorized to take all steps necessary to approve and enter into an agreement with Hamilton-Oshawa Port Authority, Public Works and Government Services Canada, and Ministry of Natural Resources to access, construct improvements, and maintain the Burlington Pier.

Key Dates & Milestones

Transport Canada restricted pier access in December 2021. Shortly thereafter in July 2022, Transport Canada transferred responsibilities for management of the piers to HOPA, requiring both the City of Hamilton and Burlington to work directly with HOPA to negotiate and develop a formal public access and ongoing maintenance agreement.

In September 2022, Council authorized the City Manager to proceed with negotiations and execution of an agreement with the HOPA for public use and ongoing maintenance of the Burlington Bay Canal shipping pier under terms as generally outlined in report ES-43-22.

Several meetings have taken place with HOPA, PWGSC, and with City of Hamilton staff since October 2022, inclusive of site meetings and condition assessment walks. The lack of clear ownership for the various land parcels required for site access has been a significant factor in the delays encountered in securing an arrangement for continued public access to the Burlington Canal Piers.

Implications

The right of municipal use of the pier in the form of an access and maintenance agreement with HOPA, PWGSC and MNR would be at nominal operating cost to the city. HOPA would continue to be responsible for the cost of capital rehabilitation and maintenance of the pier for commercial shipping as well as any major improvements to the pier surface and substructure. Furthermore, HOPA would be responsible for access ladders, pier, and navigational lighting.

The city would be responsible for minor surface maintenance of the pier including inspection, surface cleaning as required and waste removal. The city would also be responsible for the provision of barrier railings, life safety equipment, benches, and waste receptacles. The Region of Halton has indicated a willingness to fund the capital costs associated with these aforementioned amenities however, they intend to confirm Council support based on the barrier railing costs.

As an offset to the cost of pier improvements, HOPA has agreed to provide a financial contribution towards the new handrail barrier in the amount that would be incurred for the supply and installation of a bull rail that would normally be installed at the edge of the pier for boat tie-off.

Total Financial Impact

The total estimated construction and amenity costs for pier improvements works is estimated as follows:

Walking Surface Improvements	\$ 275,000
Barrier Railing	\$ 900,000
Benches and Life Safety Equipment	\$ 25,000
Total	\$ 1,200,000
HOPA Barrier Railing Cost Contribution (In lieu of Bull Rail Installation)	\$ 320,000
Net Total	\$ 880,000

The estimated annual operating impact associated with maintaining approximately 450m of pier infrastructure by the city will be approximately \$75,000 and involves the following maintenance activities:

- Daily inspection, sweeping, and litter cleanup
- Twice a season trimming of vegetation adjacent to walkway/pier
- Minor repairs to site furnishings including occasional graffiti removal
- Seasonal and intermittent closing/opening of pedestrian gate.

The pier will be maintained at the same service level as the Brant Street Pier/Spencer Smith Promenade from mid-March to mid-November (dates are weather dependent), with access fully closed off for the winter season.

Source of Funding

Funding for improvement pier works is intended to be provided by Halton Region through capital funding previously identified for the Burlington Beach Regional Waterfront Master Plan which includes enhancement on the south end of Beachway Park including the pier. However, given significant amount of the barrier railing costs, Regional staff plan to confirm Council support through a report to Regional Council planned for early 2025.

Operational funding of \$75,000 for light duty maintenance of the pier from mid-March to mid-November (weather dependent) has been approved through report [ES-43-22](#) and was incorporated within the Roads, Parks and Forestry Department’s operating budget as part of the 2024 budget process.

References

Environment, Infrastructure & Community Services Committee Report ES-43-22, 'Proposed public access/ongoing maintenance agreement for Burlington Canal Pier with Hamilton Oshawa Port Authority (HOPA)' dated September 15, 2022, with the following recommendations:

Authorize the City Manager to proceed with negotiating an agreement with the Hamilton-Oshawa Port Authority for public use and ongoing maintenance of the Burlington Bay Canal shipping pier under terms as generally outlined in engineering services department report ES-43-22; and

Direct the City Manager to report back to the Environment, Infrastructure & Community Services Committee following negotiations to provide a status update and recommendations related to the proposed public access and maintenance agreement.

Strategic Alignment

- Designing and delivering complete communities
 - Providing the best services and experiences
 - Protecting and improving the natural environment and taking action on climate change
 - Driving organizational performance
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Appendices:

A. Burlington Pier Improvement Concept Plan

Draft By-laws for Approval at Council:

None

Notifications:

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Report Approval:

All reports are reviewed and approved by the Head of Corporate Affairs, Commissioner, the Chief Financial Officer, and the Commissioner of Legal Services and Legislative Services/City Solicitor.