



Committee of the Whole Report

Report Number:	RS2023-018
Meeting Date:	March 7, 2023
Title:	License Agreement between the City of Kawartha Lakes and the Hickory Beach Dock Owners Association
Description:	Requesting renewal instructions pertaining to the License Agreement between the City of Kawartha Lakes and the Hickory Beach Dock Owners Association
Author and Title:	Lucas Almeida, Law Clerk – Realty Services

Recommendations:

That Report RS2023-018, **License Agreement between the City of Kawartha Lakes and the Hickory Beach Dock Owners Association**, be received; and

That the agreement between the City of Kawartha Lakes and the Hickory Beach Dock Owners Association not be renewed;

That Realty Services prepare the approximately 50 individual agreements between dock owners and the City of Kawartha Lakes to begin on June 1, 2023, being the end of the term of the license agreement between the City and the Dock Owners Association;

That Realty Services license the approximately 6 docks located on common area at the North end of Parkhill Drive, with a term beginning June 1, 2023; and

That these recommendations be brought forward to Council for consideration at the next Regular Council Meeting.

Department Head: _____

Financial/Legal/HR/Other: _____

Chief Administrative Officer: _____

Background:

The Dock Encroachment Policy:

At the Council Meeting of November 16, 2021, Council reviewed the Encroachment By-law 2018-017 and Docking Policy 2018-001, and, pursuant to resolution CR2021-558, adopted the revised Dock Encroachment Policy CP2021-047 (see Appendix A).

The Encroachment By-law provides that no one may put a structure, such as a dock, shed or boathouse, on City property except with the consent of the City.

The Dock Encroachment Policy allows for licensing of docks on City shoreline road allowances, subject to certain conditions. The procedure for licensing is set out as follows:

1. An application is made to the Realty Services Division.
2. The Realty Services Clerk may take the matter to the next regularly scheduled Land Management Team – which meets every other month – for review, if direction is required.
3. The Realty Services Division/Land Management Team analyzes the offer, considering the philosophy set out in this Policy.
4. If the Land Management Team does not agree on treatment of a matter, then the Realty Services Manager shall determine the direction to be taken.
5. Once a decision has been rendered, the Realty Services Division will notify the applicant of the decision and the costs of proceeding. If a survey is required by the Realty Services Division, then a deposit will be required prior to proceeding.

Approval for a 5-year term will be issued where the following conditions to approval have been met:

- Use does not adversely affect the use by others of the property (shoreline use will not be exclusive; dock use exclusive)
- Use does not adversely affect the ability of the City to use, access and maintain its property
 - Structures should be set back 3 m from the edge of the travelled road. Existing structures within 3 m of the travelled road will be asked to relocate away from the travelled roadway at the time of a major repair, if possible.

- Use does not adversely affect the ability of the general public to use the area adjacent to the dock, and to access the water
- Use does not result in overcrowding of the waterfront
 - A minimum of 6 feet should be maintained between adjacent docks, where possible
 - Dock owners must live in the neighbourhood where the dock is located. The Neighbourhood for Hazel Street and Cedar Glen Road is set out in maps appended to the Policy at Schedules A and B. For the balance of the City, the Neighbourhood will be that area within 400 metres of the dock.
- The City will license existing docks and boathouses only. The City will not approve the construction of new privately-owned docks and boathouses on City property where a historical use did not exist.
 - Eligible dock owners will only be eligible for one dock
 - Waterfront property owners will not be eligible for a dock on City land
- Use does not adversely affect the aesthetics of the area
- Federal and provincial permits are the obligation of the dock owner
- Use does not result in erosion or degradation of fish habitat
- Existing crib docks to be replaced with post/ floating docks upon repair
- Continued obligation to maintain and insure dock
- Payment: \$135.00 application to the Realty Services Division + \$150.00 per year for a dock or \$400.00 per year for a boathouse
 - Associated stairways, boat lifts, hydro, water intakes, retaining walls, elevated decks and multi-story decks are to be identified in the license agreement and included in the base payment
- Obligation to post permit number on dock and notice of private property (in areas where ownership is unclear)

Hickory Beach:

The City owns a parcel of waterfront land just north of Hickory Beach Road, at the terminus of Pleasant Point Road, in the former Township of Verulam. This land, although it resembles shoreline road allowance in its dimensions, was given to the Township from a private individual for parkland use. This land is legally described as PARK PL 153; Kawartha Lakes, being PIN 63125-0326 (LT) and is shown in Appendices B, C, and D, and is referred to as "Hickory Beach".

The residents of the neighbouring subdivision without water access comprise approximately 200 owners. These individuals formed an Association called the Hickory Beach Association (HBA). There are 50 privately-owned docks on this strip of land. The Hickory Beach Dock Owners Association (HBDOA), comprised of the 50 persons currently having docks on Hickory Beach, incorporated pursuant to the *Not for Profit*

Corporations Act as Business Number 78089-6882 and Incorporation Number 10532894, are a subset of this larger association.¹

The City also owns a second common water access block in the area, specifically, at the northern end of Parkhill Drive (see Appendix J). As of 2018, approximately 6 individual docks were located on this property. Staff propose to license this common water block, so that the area is similarly treated for docking purposes.²

The Agreement:

In 2017, the HBDOA requested a license agreement with the City to self-regulate the docks, outlined in a proposal letter (see Appendix E). The larger HBA was canvassed regarding this proposal and did not offer any objections (see Appendix F).

A report recommending the acceptance of this proposal (see Appendix G) was prepared and presented to Council, which, on June 21, 2018, made the following decision:

CR2018-149

Moved By Councillor Elmslie

Seconded By Councillor Seymour-Fagan

That Report RS2018-010, **Hickory Beach Licensing Agreement**, be received;

That Council approves in principle the concept of licensing the use of property legally described as PIN 63125-0326, known as "Hickory Beach" in the former Township of Verulam, to the Hickory Beach Docking Association on a non-exclusive basis;

That the Licensing Agreement, attached as Appendix A to Report RS2018-010, as amended, be approved; and

That the Mayor and Clerk are authorized to execute an agreement substantially in the form as set out in Appendix A to Report RS2018-010.

¹ All approximately 50 docks currently licensed by the Hickory Beach Dock Owners Association are within the 400 metre "Neighbourhood", according to the HBDOA.

² It is unknown at this time if all 6 of these docks are within the "Neighbourhood". If this is not the case, City Staff will return a further report to Council, which will either recommend licensing these 6 docks and amending the Docking Policy to accommodate, or alternatively to license only those docks within the "Neighbourhood".

Following this resolution, the City entered into an License Agreement (See Appendix D) with HBDOA. Under this agreement, the association is responsible for the maintenance of Hickory Beach, as well as for obtaining all permits as required by the Kawartha Region Conservation Authority and the Trent-Severn Waterway. The association is also required to maintain insurance over the lands and the docks.

Previous Deputation in Opposition to the Existing License:

On March 23, 2021, following a discussion regarding the Dock Policy and a deputation (See Appendix L) made by a member of the HBDOA in opposition of this agreement, in which issues were raised regarding the fair distribution of docks, Council made the decision to have this matter brought back for discussion before renewing the agreement, as per CW2021-058:

CW2021-058:

That Report RS2021-016, **Proposed Amendments to Dock Encroachment Policy CP2018-001 – Update**, be received;

That staff be directed to obtain public input on the proposed draft policy amendments, including a further amendment to remove Hazel St., Thurstonia from the requirement that only front lot owners be permitted docking, and report back to Council by the end of Q3, 2021; and

That Hickory Beach agreement be brought back for discussion before License renewal.

This report addresses that recommendation, as the current agreement between CKL and HBDOA expires on May 31, 2023.

Rationale:

The recommendation to terminate the current agreement and license the docks individually is consistent with the City's approach to licensing historical dock encroachments through agreements made with individual dock owners, as done in other areas (namely, Thurstonia and Cedar Glen).

A local resident and member of the HBDOA has raised concerns that the association may be assigning multiple docks to some residents, and that certain high-standing members of the association may be expanding their docks, thereby contravening the Dock Encroachment Policy. The recommendation ensures transparency to the process and potentially offers more uniformity in the treatment of individual owners.

In terms of cost, this alternative would initially appear to increase revenue to the City, but this would be offset by the staff costs in administering the licensing program, responding to inquiries and investigating complaints. It is possible that the dock fees would be insufficient even for the recovery of these costs, resulting in taxpayer-subsidized private docks.

Other Alternatives Considered:

The agreement between the City of Kawartha Lakes and the Hickory Beach Dock Owners Association could be renewed for another term of 5 (five) years, allowing the HBDOA to continue the self-regulating of the docks. This alternative downloads the staff costs of administering the licensing program onto the association, and allows for the local residents to self-regulate their encroachments, lessening the staff costs associated with investigating complaints. It is, however, inconsistent with the City's approach to dock licensing in the Thurstonia and Cedar Glen areas.

Further, this alternative leaves the City unable to enforce key elements of the Dock Policy, such as limiting dock sizes and ensuring the fair distribution of dock spaces. Through a deputation made on behalf of Fatima Barbosa, a resident of the Hickory Beach area and dock owner, Sandy Medeiros raised concerns that one of the board members of the HBDOA added a second dock for her own use, encroaching on Ms. Barbosa's space. There were also complaints of favouritism in the switching and assigning of docks spaces.

Alignment to Strategic Priorities

The recommendation contributes to the following Goals of the Strategic Plan:

- Goal 3 – Good Government
 - By directly licensing the docks, the City would be able to enforce compliance with the Dock Encroachment Policy.

Financial Impacts:

This alternative would initially appear to increase revenue to the City, but this would be offset by the staff costs in administering the licensing program, responding to inquiries and investigating complaints. It is possible that the dock fees would be insufficient for the recovery of these costs, resulting in taxpayer-subsidized private docks.

Consultations:

City Solicitor
Hickory Beach Dock Owners' Association

Attachments:

Appendix A: Dock Encroachment Policy – CP2021-047



Appendix A - Dock
Encroachment Policy

Appendix B: General Location Map



Appendix B -
General Location Map

Appendix C: Aerial Map



Appendix C - Aerial
Map.pdf

Appendix D: Map



Appendix D -
Map.pdf

Appendix E: HBDOA Proposal



Appendix E-
HBDOA Proposal.pdf

Appendix F: HBA Letter



Appendix F - HBA
Letter.pdf

Appendix G: Report RS2018-010



Appendix G -
RS2018-010.pdf

Appendix H: License Agreement



Appendix H -
Maintenance and Li

Appendix I: Hickory Beach Neighbourhood Map



Appendix I -
Hickory Beach Neigl

Appendix J: Map of City Properties in Area



Appendix J - Map
of City Properties.pc

Appendix K: Template Dock License Agreement



Appendix K -
Template Dock Licen

Appendix L: Deputation in Opposition of the Agreement



Appendix L -
Deputation in Oppc

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