



## Staff Report

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**Report To:** General Government Committee

**Date of Meeting:** November 29, 2021

**Report Number:** PWD-033-21

**Submitted By:** Stephen Brake, Director of Public Works

**Reviewed By:** Andrew C. Allison, CAO

**Resolution#:**

**File Number:**

**By-law Number:**

**Report Subject:** Waterfront Trail - Hydro One Lease Agreement Renewal

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### Recommendations:

1. That Report PWD-033-21 and any related communication items, be received;
2. That the Mayor and Clerk be authorized to execute license agreement renewals with Hydro One and the Canadian National Railway Company for the purposes of the Waterfront Trail in the locations described in Report PWD-033-21, and such future renewals as required for the continued existence of the waterfront trail; and
3. That all interested parties listed in Report PWD-033-21 and any delegations be advised of Council's decision.

## Report Overview

The Municipality has constructed portions of the Waterfront Trail on Hydro One and Canadian National Railroad lands and has entered into agreements with both parties for recreational use on their lands. Staff are seeking Council's approval for the authority to renew the existing and future land lease agreements for recreational use in perpetuity until such time that the lands cease to be used for recreational trail purposes.

### 1. Background

- 1.1 Council previously authorized the execution of agreements with Hydro One and Canadian National Railway for portions of the waterfront trail located south of Highway 401 in Bowmanville and Newcastle. The licensed Hydro One lands are situated three segments: 1) between Bowmanville Avenue and West Beach Road; 2) between Wilmot Creek Drive and South Service Road; and 3) between Cobbledick Road and Toronto Street. The licensed Canadian National Railway lands are at the intersection of the Trans Canada Trail and Wilmot Creek Drive.
- 1.2 Future trail development on the Hydro One lands located between South Service Road and Cobbledick Road is also proposed for the future.
- 1.3 The Municipality has obtained a license for a 13m wide corridor (including 3m of trail and a 5m buffer) on both sides on the Hydro One Lands. A license for Canadian National Railroad Lands has been obtained for an area of 0.0154 ha.
- 1.4 In May 2006, Council approved the by-laws [2006-114](#) and [2006-115](#) for the license agreement with Hydro One for the Waterfront Trail east of Wilmot Creek Drive in both former Darlington and Clarke Townships respectively, and in April 2007 approved by-law [2007-077](#) to enter into a license agreement with Canadian National Railroad.

### 2. Comments

- 2.1 The license agreement with Hydro One is granted on the provision that the Licensee (the Municipality) pay the sum of Two Dollars (\$2.00) plus HST and in addition 50% of all taxes, rates or grants in lieu thereof for the portion of lands identified as the Licensed area. Our Financial Services Department has indicated estimated that at the current (2021) tax rate, levies for the Newcastle 2.72-acre parcel licensed area will be \$3,200 and the Bowmanville / Newcastle 48.5 acre parcel will be \$56,000 and will be paid out of Account 100-21-211-00000-7233, Uncl Admin – Lease Rental Exp.

- 2.2 The Municipality's license with Hydro One is valid for a five (5) year term which is a standard that Hydro One is enforcing with all their corridor licenses. It is non-renewable and therefore requires the Municipality to enter into a new licence agreement at the end of each term. Hydro One has denied Staff's request for an extended period for renewal, citing their five (5) year standard. In addition, there is a 90-day termination option that gives the Licensor, Hydro One, the sole discretion to exercise at any time.
- 2.3 The Municipality must carry Five Million Dollars (\$5,000,000) insurance to indemnify both Hydro One and Canadian National Railroad, which the Municipality is in compliance with.
- 2.4 The license agreement with Canadian National Railroad was granted on the provision that the Licensee (the Municipality) pay the sum of Five Hundred Dollars (\$500) per year for a period of ten (10) years after which the Licensee has the option to further renew the lease for another ten (10) years.
- 2.5 The Canadian National Railroad license agreement contains a 30-day termination clause that may be executed at the discretion of the Licensor.

### **3. Concurrence**

This report has been reviewed by the Directors of Legislative Services and Financial Services who concur with the recommendations.

### **4. Conclusion**

It is respectfully recommended that Council authorize present and future renewals of licencing agreements with Hydro One and Canadian National Railroad for the purpose of sustaining public access to the Waterfront Trail.

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Staff Contact: Andrew Johnson, Landscape Architect, 905-623-3379 ext. 2307 or [ajohnson@clarington.net](mailto:ajohnson@clarington.net).

Attachments:

Attachment 1 – Waterfront Trail Hydro Lands Newcastle

Attachment 2 – Waterfront Trail CN Lands at Wilmot Creek Drive

Attachment 3 – Waterfront Trail Hydro Lands Bowmanville

Attachment 4 – License Renewal Agreement, Hydro One Newcastle segment of Waterfront Trail

Interested Parties:

There are no interested parties to be notified of Council's decision.