



REPORT

Council

Meeting Date: May 27, 2024

FROM: Parks and Open Space Department

DATE: May 14, 2024

SUBJECT: **Oakville Harbours Seawall – Update Report**

LOCATION: 150 Water Street

WARD: Ward 3

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RECOMMENDATION:

1. That the report from the Parks and Open Space department dated May 14, 2024; be received.
2. That the deficit amount of \$1,481,907 in capital account 52211603 – Seawall Rehabilitation Oakville Harbour to be funded from the Capital Reserves, be approved.

KEY FACTS:

The following are key points for consideration with respect to this report:

- In 2016, the Oakville Harbour Seawall Replacement Project was approved to replace the existing seawall at the Oakville Power Boat Club basin.
- Shoreplan Engineering Ltd. was retained by the town to design the seawall and related structures. Terraprobe Inc. was retained to provide geotechnical engineering.
- In November 2017, Seawaves Development Services Inc. was awarded the construction contract for the project. Their bid was at \$3.88 million.
- Work was originally scheduled to be completed by November 1, 2018.
- During the project several contractual issues arose between the contractor and the Town that lead to work stoppages, delays, and ultimately litigation between the parties.
- Notwithstanding the issues between the contractor and the Town, the seawall portions of the contract were completed by Seawaves Development, however

there were significant additional costs incurred to fully complete the project. Due to additional costs the project is in a deficit position and there is a recommendation for Council approval to fund the deficit.

- This report advises Council the seawall project was fully completed and requests Council approval on funding the project deficit. Litigation between the parties is continuing and a separate update report is provided by the Legal department on tonight's agenda (please see Confidential Discussion item Oakville Harbours Seawall – Legal Report Update also on tonight's agenda).

BACKGROUND:

In 2016, the Oakville Harbour Seawall Replacement Project was approved to replace the existing seawall at the Oakville Power Boat Club basin as well as along the adjacent Sixteen Mile Creek to the Burloak Canoe Club. The plan was to drive steel sheets into the creek bed to a specified height (12 m) and then to cap the steel sheets.

Shoreplan Engineering Ltd. ("Shoreplan") was retained by the town to design the seawall and related structures and Terraprobe Inc. ("Terraprobe") was retained to provide geotechnical engineering. Both had previously worked with the town.

In November 2017, Seawaves Development Services Inc. ("Seawaves") was awarded the construction contract for the project pursuant to RFP T-60-2017. Their bid was at \$3.88 million. Seawaves had not worked previously with the town. On or about December 1, 2017, the town and Seawaves entered a CCDC-2 Stipulated Price Contract (2008) (the "Contract") to complete the project. The project had three phases: Section A – installation of sheet pile sea wall and boulder berm in the Marina Basin; Section B – installation of sheet pile sea wall along the riverbank of the Oakville Power Boat Club; and Section C – maintenance dredge of the 16 Mile Creek Harbour.

The work schedule was constrained by seasonal conditions and environmental legislative requirements. Originally, it was scheduled to be started in September 2018 with a target completion date of November 1, 2018.

During the contract there arose several issues with the contractor that included the contractor contacting the Ministry of Labour that led to a work stoppage, a list of issues from the contractor that required resolution before they returned to the work site, and immediate payment of a change order. (These issues are detailed in the Confidential Discussion item – Oakville Harbours Seawall – Legal Department Update also on tonight's agenda).

While the seawall portion of the project was to be completed by November 1, 2018, an extension for “in-water” works was granted by the MECP (Ministry of Environment, Conservation and Parks) until November 30, 2018. In December 2018, Seawaves commenced litigation against the town and Shoreplan claiming damages for breach of contract, plus aggravated damages, and punitive damages. More specific details are included with Confidential Discussion item – Oakville Harbours Seawall – Legal Department Update also on tonight’s agenda.

Seawaves did complete Section A and Section B of the contract however the Town cancelled Section C (dredging of Sixteen Mile Creek). In spring and early summer 2019, under separate contracts the Town rebuilt the OPBC fuel shed and fuel system. The dredging was delayed until fall 2019 and completed by another contractor.

COMMENT/OPTIONS:

The Oakville Harbour seawall and dredging projects were completed notwithstanding several challenges. Currently Seawaves and the Town remain in litigation. An update on that litigation is the subject of Confidential Discussion Item – Oakville Harbours Seawall – Legal Department Update also on tonight’s agenda.

The project originally was awarded to Seawaves Development Services Inc. for \$3.88 million dollars through a publicly advertised tender process. The approved budget for the project was \$4,162,000. Due to the number of issues and difficulties that occurred during the project, the final cost of the project was \$5,643,907. This leaves a deficit of \$1,481,907. The primary drivers for the over expenditure to the project included a new fuel shed, new fuel system, and re-asphalting of the parking lot.

CONSIDERATIONS:

(A) PUBLIC

The public has not been advised of this report coming forward to Council.

(B) FINANCIAL

Due to various issues, capital project 52211603 Seawall Rehabilitation – Oakville Harbour was completed with a deficit of (\$1,481,907) and Council approval to fund the project deficit is listed as Recommendation 2 of this report.

(C) IMPACT ON OTHER DEPARTMENTS & USERS

This report has been prepared in consultation with the Legal and Finance departments.

(D) COUNCIL STRATEGIC PRIORITIES

This report addresses Council's Strategic Priority of Accountable Government

(E) CLIMATE CHANGE/ACTION

There is no climate change/action associated with this report.

Prepared by:

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Recommended by:

Paul Damaso
Commissioner – Community Services

Submitted by:

Paul Damaso
Commissioner – Community Services