TO: Mayor and Members, Committee of the Whole  
WARD(S) AFFECTED: CITY WIDE

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<th>COMMITTEE DATE: March 8, 2010</th>
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<td>SUBJECT/REPORT NO: Interest Arbitration Award - City of Hamilton &amp; Hamilton Entertainment Convention Facilities Inc. and the International Union of Operating Engineers, Local 772 (HUR10007) - (City Wide)</td>
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<td>SUBMITTED BY: Chris Murray, City Manager</td>
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**Council Direction:**

Further to Council’s direction to refer outstanding collective bargaining matters between the City and the International Union of Operating Engineers, Local 772, to interest arbitration, the following will provide a summary of the interest arbitration award resolving these matters.

**Information:**

In October, 2007, the International Union of Operating Engineers (IUOE), Local 772 (now the Hamilton Ontario Water Employees – HOWEA) served the City with notice to bargain a renewal collective agreement. The collective agreement at that time was for the period of January 1st, 2005 – December 31st, 2007. The bargaining unit is comprised of 17 members – 7 of which are employed at either Macassa or Wentworth Lodges and 10 of which are employed at HECFI.

The collective bargaining process with the IUOE, Local 772 was initially delayed due to a lack of staff resources. Collective bargaining commenced in March, 2008, wherein both the City and HECFI advised the IUOE that their fundamental issue was to bargain separate collective agreements for each of the respective employers. The primary reason for this proposal was to secure its separation that is reflective of the respective governing legislation. Employees at Macassa and Wentworth Lodges fall under the jurisdiction of the Hospital Labour Disputes Arbitration Act (HLDAA), and employees at HECFI are governed by the Ontario Labour Relations Act (OLRA). The IUOE rejected this proposal and as a result, the matter was eventually brought before the Ontario Labour Relations Board.
Despite the arguments presented by the City and HECFI, the Board dismissed the application primarily reporting that such a “split” would require the union’s consent. As a result of this ruling, the parties re-convened the collective bargaining process on June 10th, 2009. Given that the union’s proposal exceeded Council’s mandate, the parties were once again at an impasse. Accordingly, the collective bargaining process was referred to the interest arbitration, in accordance with provisions provided for under HLDAEA.

In August, 2009, staff reported that this matter had been referred to interest arbitration. It was further recommended that, given the delay in the collective bargaining process and the fact that the collective bargaining process had resumed during a difficult economic climate, a wage increase of 3% (similar to CUPE, Local 5167 and other City groups) be awarded. Council approved this recommendation. On January 8th, 2010, the interest arbitration hearing was held with Arbitrator William Kaplan.

At the hearing, the City and HECFI argued the difficult economic climate and their inability to support the IUOE’s request for CUPE, Local 5167 parity particularly with respect to wages. The main matter in dispute was the quantum of any across the board increases to be awarded in 2009 and 2010. While acknowledging that it had negotiated a collective agreement with the CUPE, Local 5167 bargaining unit that provided for a 3% general increase in both 2009 and 2010, the City took the position that that agreement, negotiated before the current economic downturn, was not an appropriate comparator and should not be followed in this collective agreement. The City pointed to the economic situation generally, and to the specific challenges faced in Hamilton with its rising unemployment and significant economic decline represented in various ways, including the burgeoning welfare rolls, reduced housing starts, etc. The City proposed a wage increase of 1.5% for each of 2009 and 2010, in accordance with Council’s mandate.

For its part, the IUOE took the position that it should receive wage increases of 4% for each of the two remaining years of the collective agreement. At the very least, it submitted, that it should receive no less than what the City and CUPE, Local 5167 freely negotiated for the exact same time periods, that is, 3% in each of 2009 and 2010.

In his award, Arbitrator Kaplan directed the following: 2.75% wage increase for each of 2009 and 2010; effective January 1st, 2010, vacation enhancement to 5 weeks and 2 days at 13 years (from 14 years), 7 weeks and 2 days at 25 years (from 26 years), 8 weeks and 2 days at 30 years (new); effective March 1st, 2010, vision care enhancement to $300 every 24 months; effective December 31st, 2010, increase stand by pay to $2.75 per hour; and, add Family Day to list of statutory holidays effective February 1st, 2010. In addition, acting pay for Chief Engineer be paid at a 10% premium of regular wage rate (vs. $1.25 per hour) and clarification language respecting bereavement leave.
The cost of providing the IUOE with the awarded 2.75% for each of 2009 and 2010 is calculated at $27,678 and $28,431 respectively. Vision enhancements for 2010 is estimated at $760. Total vacation enhancement cost amounts to approximately $4,600. Accordingly, the total cost of the award for 2009 and 2010 is $61,469. These costs have been reviewed and there is sufficient funding in the 2009 budget and the proposed 2010 budget.