TO: Chair and Members  
Public Works Committee  
WARD(S) AFFECTED: WARD 10

COMMITTEE DATE: May 3, 2010

SUBJECT/REPORT NO:  
City of Hamilton Purchase of 51 Cherry Beach Road, in the Former City of Stoney Creek, from Giulia DiRisio, Nicola DiRisio and Dominic DiRisio (PW10040 / PED10096) (Ward 10)

SUBMITTED BY:  
Gerry Davis, CMA  
General Manager  
Public Works Department  
Tim McCabe  
General Manager  
Planning and Economic Development Department

PREPARED BY:  
Vince DiPietro  
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Mark A. Kosiuk  
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SIGNATURE:

SIGNATURE:

RECOMMENDATION:

(a) That an Option to Purchase, with an Authority to Enter, executed by Giulia DiRisio, Nicola DiRisio and Dominic DiRisio, being subject to a satisfactory environmental review and scheduled to close on or before August 9, 2010 to purchase the lands and buildings described as Part of Lot 18, Broken Front Concession, in the former Township of Saltfleet and the former City of Stoney Creek, now in the City of Hamilton, as in Instrument WM41006, together with any
and all rights of way or easements over adjacent lands and rights of access to water as may be in the ownership through Deed or continued use, with a road frontage of 7.62 metres (25.0) feet, more or less along the northerly limit of Cherry Beach Road, with a depth of 125.27 metres (411.0 feet) more or less, being all of Property Identification Number 17346-0035, being Assessment Roll Number 251800304006800 and known municipally as 51 Cherry Beach Road, shown on Schedule “A”, attached to Report PW10040 / PED10096, be approved and completed, at a purchase price of $273,900.

(b) That subject to approval of Recommendation (a) that the total acquisition costs in the amount of $388,900 (including purchase price, environmental review, demolition, legal, real estate costs and contingency) be charged to 2010 Capital Budget as Project ID 4400856144 (Cherry Beach Land Acquisition and Parkland Development Account).

(c) That as consideration, the amount of $2 paid to the owners pursuant to the agreement, be deducted from the purchase price.

(d) That the Mayor and Clerk be authorized and directed to execute any necessary documents, in a form satisfactory to the City Solicitor.

(e) That upon City Council approval of the purchase of 51 Cherry Beach Road, that the Director of Transportation, Energy and Facilities be authorized and directed to take all the necessary steps for the demolition of the subject buildings, and that the cost for the demolition and any additional ancillary expenses be charged to Project ID 4400856144 (Cherry Beach Land Acquisition and Parkland Development Account).

(f) That the costs incurred for the provision of Real Estate’s service in the amount of $5,000 (inclusive of an internal appraisal) be credited to Account 45408-3560150200 (Property Purchases and Sales) and debited from Project ID 4400856144 (Cherry Beach Land Acquisition and Parkland Development Account).

**EXECUTIVE SUMMARY**

The former City of Stoney Creek and the new City of Hamilton has been acquiring lands in the Cherry Beach lakefront area for over 30 years in order to develop a community lakefront park. The acquisition program has been re-affirmed by City Council at its meeting on June 25, 2008, in adopting Item K (i), Private and Confidential, Public Works Committee Report 08-011, *Purchase of Properties on Cherry Beach Road, Stoney Creek*. The current purchase recommendation is a followup to this direction.
The Option to Purchase agreement includes an Authority to Enter Agreement for the City to complete the required environmental testing.

Alternatives for Consideration – See Page 5.

FINANCIAL / STAFFING / LEGAL IMPLICATIONS (for Recommendation(s) only)

Financial: There are sufficient monies in Project ID 4400856144 (Cherry Beach Land Acquisition and Parkland Development Account) to fund the costs identified in this report for the property acquisition. The costs are broken down as follows:

<table>
<thead>
<tr>
<th>Item</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Purchase Cost</td>
<td>$273,900</td>
</tr>
<tr>
<td>Real Estate Fee and Legal Fees</td>
<td>$  10,000</td>
</tr>
<tr>
<td>Environmental Site Assessment, Permits, Designated Substance Studies, Abatement, Demolition</td>
<td>$ 30,000</td>
</tr>
<tr>
<td>Cost Recovery</td>
<td>$ 45,000</td>
</tr>
<tr>
<td><strong>Subtotal</strong></td>
<td><strong>$358,900</strong></td>
</tr>
<tr>
<td>Contingency</td>
<td>$  30,000</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$388,900</strong></td>
</tr>
</tbody>
</table>

Staffing: There is no staffing implication arising from this recommendation.

Legal: Legal Services has assisted in the preparation of the Offers to Purchase and will be required to assist in the completion of the sale transaction.

HISTORICAL BACKGROUND (Chronology of events)

The information/recommendations contained within this report primarily affect Ward 10 but may have Citywide implications.

Prior to amalgamation, the former City of Stoney Creek had initiated an acquisition program in the area of Cherry Beach Road. Stoney Creek began buying in this area as early as the 1960s and purchases continued to take place into the 1990s. These properties were acquired to facilitate a future waterfront park to be located in an area from west of First Private Road to the eastern limits of the property holdings along Third Private Road, bounded by Lake Ontario to the north and Cherry Beach Road to the south. Most residences in the Cherry Beach acquisition area are not serviced with municipal water, sanitary or storm sewers.
The Stoney Creek Official Plan (Subsection A.7.2.5) authorizes the municipality to acquire lands for parkland uses to ensure that an adequate level of open space, recreational services and facilities are provided as per the Recreation Master Plan. These acquisitions must be in accordance with the provisions of Subsection F.8 of the Official Plan, which in part permits the acquisition of land given its availability on the open market. It was on this basis that lands were acquired in the 1990s. The subject property is being purchased under the same precedence.

The Lakeshore Neighbourhood Plan for Stoney Creek identifies the future parkland area as well, in the location described above for waterfront parkland. The Lakeshore Secondary Plan is found in Appendix “B”.

A City of Stoney Creek internal Planning staff memo in 1993 noted among other benefits to the municipality, that a lakefront park at Cherry Beach would:

1) maximize and consolidate municipal lands in this area;
2) maximize the visibility and development of the potential park;
3) remove private dwellings which otherwise would remain on a private road indefinitely; and,
4) relieve environmental septic problems for the existing homeowners and will alleviate the necessity of additional municipal services.

Cherry Beach is an older lakefront area enclave, north of the Queen Elizabeth Way between Millen and Dewitt Roads. As per Zoning By-law 3692-92, approved by Stoney Creek Council on February 20, 1996, the subject property is in a Neighbourhood Development “ND-1” Zone. The site-specific zoning amendment restricts the re-development of the subject and other lands in the Cherry Beach acquisition area.

The entire Cherry Beach acquisition area consists of approximately 9 acres. At present, the City of Hamilton owns almost 7.5 acres in this area. The balance of approximately 1.5 acres is privately held in 8 smaller residential parcels.

The subject property at 51 Cherry Beach Road consists of 0.10 hectares (0.24 acres), more or less with 7.62 metres (25 feet) of frontage. The real estate includes two frame one-storey residential dwellings, one rented and one for the owners use. These structures are to be demolished upon closing. The Real Estate Section negotiated a purchase price of $273,900 with the owners. This price is within the range of estimated appraised market value of the subject property. Earlier in 2010, the subject property was listed for sale with a local real estate broker with an asking price of $310,000.

To satisfy the requirements under the City’s Contaminated Sites Management Program, the purchase is conditional on the completion of a favourable Environmental Site Assessment prior to closing. The City has 45 days from the acceptance date of the
Option in which to review the property and recommend closing based on the results of the assessment.

With the approval of this purchase, the City has up to 8 additional properties in the Cherry Beach subject area to acquire in order to complete the acquisition program for the Cherry Beach lakefront park.

POLICY IMPLICATIONS

This recommendation is consistent with the Real Estate Management Portfolio Strategy Plan, as approved by Council on November 24, 2004, to acquire property in support of municipal programs and needs. As the purchase price of the subject land exceeds the $250,000 limit set by City Council under the Delegation of Authority approval process, approval is, therefore, required by City Council.

RELEVANT CONSULTATION

- Corporate Services, Legal Services Division
- Public Works Department, Environment & Sustainable Infrastructure Division
- Planning and Economic Development Department, Economic Development and Real Estate Division

ANALYSIS / RATIONALE FOR RECOMMENDATION

(include Performance Measurement/Benchmarking Data, if applicable)

n/a

ALTERNATIVES FOR CONSIDERATION:

(include Financial, Staffing, Legal and Policy Implications and pros and cons for each alternative)

An alternative is not to purchase these lands. This is not recommended in light of the past actions taken by the former City of Stoney Creek in initiating the acquisition program in the area of Cherry Beach Road to facilitate a future waterfront park and subsequently re-affirmed by City Council at its meeting on June 25, 2008, in continuing with the acquisition strategy.

In the event that approval or funding of the Option to Purchase is not granted by Council, the City may be faced with an expropriation in years to come to obtain the subject lands in order to accommodate the proposed Cherry Beach lakefront park. An expropriation process is an expensive, confrontational and time-consuming process.
Vision: To be the best place in Canada to raise a child, promote innovation, engage citizens and provide diverse economic opportunities.

Values: Honest, Accountability, Innovation, Leadership, Respect, Excellence, Teamwork

CORPORATE STRATEGIC PLAN  (Linkage to Desired End Results)


6. Environmental Stewardship
- Natural Resources are protected and enhanced. Providing the lands required to move forward to develop a lakefront park for the general community of the City of Hamilton.
- Aspiring to the highest environmental standards. Removal of two residences with potential septic and sanitary concern near a water body. Once land consolidation is completed, staff will commence the planning for shoreline stabilization.
- Hamilton’s high-quality environmental amenities are maintained and enhanced. Waterfront access is an important environmental amenity, and the purchase of properties as they become available is a wise use of funds

APPENDICES / SCHEDULES

Appendix “A” to Report PW10040 / PED10096
Appendix “B” to Report PW10040 / PED10096
Appendix “A” to PW10040 / PED10096

LOCATION PLAN

51 CHERRY BEACH ROAD, former City of Stoney Creek purchase from Disirio

CITY OF HAMILTON

LEGEND

SUBJECT LAND

SCALE

DATE

NOT TO SCALE

2010-04-28

REFERENCE FILE NO:

2002 035