



## City of Hamilton

# AUDIT, FINANCE AND ADMINISTRATION COMMITTEE ADDENDUM

**Meeting #:** 18-004  
**Date:** April 9, 2018  
**Time:** 9:30 a.m.  
**Location:** Council Chambers, Hamilton City Hall  
71 Main Street West

Angela McRae, Legislative Coordinator (905) 546-2424 ext. 5987

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## 12. PRIVATE AND CONFIDENTIAL

- \*12.2 M.J. Dixon Construction Limited - Delegation Submissions (Distributed under separate cover)

Pursuant to Section 8.1, Sub-sections (e) and (f) of the City's Procedural By-law 14-300, and Section 239(2), Sub-sections (e) and (f) of the *Ontario Municipal Act*, 2001, as amended, as the subject matter pertains to litigation or potential litigation, including matters before administrative tribunals, affecting the City; and advice that is subject to solicitor/client privileges affecting the City.

- \*12.2.a Correspondence from the City of Hamilton to M.J. Dixon Construction Ltd (Distributed under separate cover)

Pursuant to Section 8.1, Sub-sections (e) and (f) of the City's Procedural By-law 14-300, and Section 239(2), Sub-sections (e) and (f) of the *Ontario Municipal Act*, 2001, as amended, as the subject matter pertains to litigation or potential litigation, including matters before administrative tribunals, affecting the City; and advice that is subject to solicitor/client privileges affecting the City.

## 4.1

### Form: Request to Speak to Committee of Council

Submitted on Friday, March 30, 2018 - 2:33 pm

==Committee Requested==

**Committee:** Audit, Finance & Administration

==Requestor Information==

**Name of Individual:** Kyra Kozole and Jocelyn Heaton

**Name of Organization:** Students at McMaster University

**Contact Number:**

**Email Address:**

**Mailing Address:** N/A

**Reason(s) for delegation request:** A a follow up to our presentation to City officials regarding our needs assessment of the LGBTQ and 2S communities in Hamilton. We will be asking the City to support the creation of a LGBTQ and 2S centre.

**Will you be requesting funds from the City?** No

**Will you be submitting a formal presentation?** Yes



## 4.2

**Form: Request to Speak to Committee of Council**  
**Submitted on Wednesday, March 28, 2018 - 10:04am**

**==Committee Requested==**

**Committee:** Audit, Finance & Administration

**==Requestor Information==**

**Name of Individual:** Shekar Chandrashekar

**Name of Organization:** Concerned Private Citizen

**Contact Number:**

**Email Address:**

**Mailing Address:**

**Reason(s) for delegation request:**

Respecting Report FCS18030 - Response to Mr. Shekar Chandrashekar, Respecting a FOI Request. Report was received at AF&A on March 26<sup>th</sup>, 2018 and I was unable to delegate to the report at that Meeting.

**Will you be requesting funds from the City? No**

**Will you be submitting a formal presentation? Yes**



## 4.3

### **Form: Request to Speak to Committee of Council**

Submitted on Tuesday, April 3, 2018 - 8:50 am

==Committee Requested==

**Committee:** Audit, Finance & Administration

==Requestor Information==

**Name of Individual:** Viv Saunders

**Name of Organization:** n/a

**Contact Number:**

**Email Address:**

**Mailing Address:**

**Reason(s) for delegation request:**

Area Rating Spending - Staff Information Report  
Unknown item # on Monday, April 9th Agenda.

**Will you be requesting funds from the City?** No

**Will you be submitting a formal presentation?** No





I understand that the delay in payment is not the City of Hamilton's fault.

I am appreciative of the good faith the City has given me after reviewing my good payment history.

Below is the payments made including payment in advance for the last 2 installments showing good faith on my end (exhibit 1)

Although I do appreciate the concessions made by the City I am asking for them to reflect on the following circumstances:

1. Canada post failed to deliver both July 28/2017 invoices to my mailing address. This is not my fault nor the City's.
2. In turn, I did not receive the option to make payment plan. This would be helpful to me as the magnitude was quite large and would impact my personal cash flow situation.
3. After receiving the mail in late 2017 I was able to make full payment for one of the 2 outstanding invoices that I received.
4. I was made are of the other invoice with more arrears in February 2018 at which time I made arrangements with the City to pay and have the remaining amount assessed with respect to a potential rebate on interest.
5. I paid \$137.38 in Interest on the payment made in February.
6. Not receiving the option to enter into a payment plan was significant due to the magnitude of the amount vs. my planned budgeted cash outflows compounded by the fact that I knew my employer, Hamilton Specialty Bar was experiencing financial difficulty and ultimately filed for receivership January 8, 2018 and I was subsequently temporarily laid off on February 5, 2018.

I am kindly asking the City to help me on this matter. I appreciate the approximate \$100 of credits given to me and understand the City is not obligated to give me anything. But I am appealing to consider the points above, along with the \$137.38 already paid in interest, my good past and future payment history, and general good faith.

Thank you for your time and see exhibit 2 as a reference for the reconciliation of payments.

Regards,

Zack Waxman






**Exhibit 1**

# Payment History

[Help](#)

View

HAMILTON (CITY OF) TAXES - : 

To Payee 	From Account 	Frequency 	Status 	Amount	Payment Date 	Action
HAM TAXES -	TD ALL- INCLUSIVE BANKING PLAN	Once	Paid - R9H4J9	\$2,565.39	Apr 04, 2018	
HAM TAXES -	TD ALL- INCLUSIVE BANKING PLAN	Once	Paid - Q3K6L8	\$6,866.32	Feb 16, 2018	
HAM TAXES -	TD ALL- INCLUSIVE BANKING PLAN	Once	Paid - J2U3R9	\$6,270.98	Dec 28, 2017	
HAM TAXES -	TD ALL- INCLUSIVE BANKING PLAN	Once	Paid - R4A3X2	\$952.98	Sep 28, 2017	

**Exhibit 2**

Billing Date	Due Date	Amount	Paid	Owing	Paid Date	
01/02/2017	28/02/2017	1,042.00	1,042.00	-	28/02/2017	
01/02/2017	28/04/2017	1,041.82	1,041.82	-	27/04/2017	
01/06/2017	30/06/2017	953.00	953.00	-	29/06/2017	
01/06/2017	29/09/2017	952.98	952.98	-	28/09/2017	
28/07/2017	31/08/2017	3,135.49	3,135.49	-	28/12/2017	Invoice not received until December
28/07/2017	29/09/2017	3,135.49	3,135.49	-	28/12/2017	Invoice not received until December
28/07/2017	31/08/2017	2,082.02		2,082.02		Invoice not received until December
28/07/2017	29/09/2017	2,082.02		2,082.02		Invoice not received until December
01/02/2018	28/02/2018	2,565.00		2,565.00		
PAYMENT			6,866.32	(6,866.32)	16/02/2018	Based on \$438.66 Interest as per discussion with City of Hamilton Note A
01/02/2018	30/04/2018	2,565.39	2,565.39	-	04/04/2018	
		19,555.21	19,692.49	(137.28)		

Note A

1st Installment due as per Feb 1/2018 invoice	7,304.98
Interest implied as per City of Hamilton	438.66
Payment 2/16/2018	<u>6,866.32</u>
1st installment of 2018	2,565.00
Past due per invoice	<u>4,739.98</u>
	7,304.98
Total Past due as per Mar 8/2018 Statement	447.09
Interest paid as per above	<u>137.38</u>
Total Interest	584.47
Interest related to time of pending matter	8.43



- \$2,000 on a drone
- \$10,000 hosting a Family Fun Night 6 wks before the 2014 election
- \$36,000 on Office Expenses not listed in Appendix C
- \$65,000 on staffing costs
- \$100,000 (not \$60K) for a website
- \$ 400,000 on Culture & Rec

These are just some of the examples of expenditures via the \$100,000 per year Discretionary funds. In total, well over a million \$'s has been directed towards our elected reps' self-interests since 2012.

There is an inherent unfairness of some groups and councillors having access to back-door funds.

Members of Committee you are in a very difficult position. You need to make a decision as to whether you overlook the past actions of our Council ...Or whether you address the core issue.

That core issue being one of Trust.

Hundreds of thousands of Hamiltonians have been paying Special Capital Infrastructure Re-investment property taxes for 8 years now.

Our Municipal Act is very clear on the rules surrounding Special Services property tax levies: (as per attached Appendix A).

Through our Area Rating Policy, Staff recommended and Council approved what that Special Service was to be:

**Capital Infrastructure.** Plain & Simple. Infrastructure that is a capital cost.

Time doesn't need to be spent doing a detailed analysis of the items listed within the Staff Report. A cursory review should lead you to an opinion that millions have been spent which are not Capital and are not Infrastructure.

In addition, , the Municipal Act states that the Minister may also put in further restrictions on what those special levies **cannot** be spent on. (*see sub-section 5 of the Special Services regulation*)

The City cannot spend Special Levies on Health Services & Programs. (*see attached Appendix B & C*)

It appears that the majority of 'social infrastructure' expenditures listed within the Staff Report, whether they were capital or operating in nature, were approved outside of the Minister's Regulation.

*(As an aside, my personal view is that the Minister's regulation is in place for good reason. Food Banks & School Nutrition Programs should **not** be provided to **only** one area of our City. The general health of every Hamiltonian is a basic core service that should be provided consistently in every community city wide.*

Quite honestly, I don't envy your having to deal with what's before you & I don't know if you've come here today with a pre-determined outcome of what the next best steps should be. I would however like to offer a suggestion that might help work towards restoring trust in our elected officials & in our governance.

This issue should be Audited.

To be clear, I'm not asking for a Value for Money audit. There is no disagreement that most, if not all, of these expenditures were valuable & directly contributed to the well-being of those living in Wards 1 thru 8. One could also argue, those expenditures have also indirectly helped Ward 9 – 15 residents.

Emotions & personal self-interests aside, at the end of the day the public deserves to be provided with an unbiased opinion on the following details:

1. Which expenditures, if any, were “an additional benefit that will not be received by those of us living in Wards 9 thru 15”;
2. Which expenditures fell outside of the other regulations of the Municipal Act;
3. Which expenditures fell outside of the council approved Area Rating policy
4. How many projects have circumvented your council approved AR policy which states Culture is **not** area-rated
5. How many projects have circumvented your council approved AR policy which states Rec is **area rated based on urban/rural** and **not** based on ward
6. Whether any of the office expenses listed would have resulted in overages in Office Budgets in those years,
7. Whether grant funds were disclosed on any applications for additional taxpayer funds via other requests such as Community Enrichments funds or the Neighbourhood Engagement Matching Grant programs
8. Whether sponsorship funds resulted in any one organization being provided with an excess of \$350 per year, as per Council policy;
9. Details on the end use of the sponsorship funds, for eg: historical plaques / benches, or (hockey) parent’s meals/transportation at an event,
10. and lastly, whether the dates of those sponsorships/events were in the last election black-out period, specifically from August 31<sup>st</sup> 2014 – October 27, 2014

I would also again ask that during this election year, a moratorium be placed on any discretionary fund approvals effective May 1<sup>st</sup>.

As well, I would ask that a deferral be placed on AR projects until a more fulsome Information report is provided.

I’m requesting this for 2 reasons:

1. Due to the fact that 1/3<sup>rd</sup> of the discretionary spending in 2014 was “event” based. Some of those events did occur just weeks or days before the 2014 municipal election; and
2. More importantly, it should be blatantly obvious a clearer Area Rating Policy needs to be formulated or perhaps even a discussion occurs to outright abolish.

Thank you for allowing me to speak.

John Wooden — ‘The true test of a man’s **character** is what he does **when no one is watching.**’

## By-laws re special services (In Municipal Act)

326. (1) A municipality may by by-law,

(a) identify a special service;

(b) determine which of the costs, including capital costs, debenture charges, charges for depreciation or a reserve fund, of the municipality are related to that special service;

(c) designate the area of the municipality in which the residents and property owners receive or will receive an additional benefit from the special service that is not received or will not be received in other areas of the municipality;

(d) determine the portion and set out the method of determining the portion of the costs determined in clause (b) which represent the additional costs to the municipality of providing the additional benefit in the area designated in clause (c);

(e) determine whether all or a specified portion of the additional costs determined in clause (d) shall be raised under subsection (4). 2001, c. 25, s. 326 (1); 2006, c. 32, Sched. A, s. 136 (1).

## Definitions

(2) In this section,

“benefit” means a direct or indirect benefit that is currently available or will be available in the future; (“avantage”)

“special service” means a service or activity of a municipality or a local board of the municipality that is,

(a) not being provided or undertaken **generally** throughout the municipality, or

(b) being provided or undertaken **at different levels or in a different manner** in different parts of the municipality. (“service spécial”) 2001, c. 25, s. 326 (2).

## Limitation

(3) An area designated by a municipality for a year under clause (1) (c) *cannot include an area in which the residents and property owners do not currently receive an additional benefit but will receive it in the future unless the expenditures necessary to make the additional benefit available appear in the budget of the municipality for the year adopted under section 289 or 290 or the municipality has established a reserve fund* to finance the expenditures over a period of years. 2001, c. 25, s. 326 (3).

## Levies

(4) For each year a by-law of a municipality under this section remains in force, the municipality shall, except as otherwise authorized by regulation,

(a) in the case of a local municipality, levy a special local municipality levy under section 312 on the rateable property in the area designated in clause (1) (c) to raise the costs determined in clause (1) (e);

(b) in the case of an upper-tier municipality, direct each lower-tier municipality which includes any part of the area designated in clause (1) (c) to levy a special upper-tier levy under section 311 on the rateable property in that part of the municipality to raise its share of the costs determined in clause (1) (e). 2001, c. 25, s. 326 (4).

## Regulations

(5) The Minister may make regulations providing for any matters which, in the opinion of the Minister, are necessary or desirable for the purposes of this section, including,

(a) prescribing services that cannot be identified as a special service under clause (1) (a);



Municipal Act, 2001

ONTARIO REGULATION 585/06

SERVICES THAT CANNOT BE IDENTIFIED AS A SPECIAL SERVICE

Consolidation Period; From January 1, 2007 to the e-Laws currency date.

No amendments

*This is the English version of a bilingual regulation.*

**Services that cannot be identified as a special service**

1. For the purposes of clause 326 (5) (a) of the Act, the following services are prescribed as services that cannot be identified as a special service under clause 326 (1) (a) of the Act

1. Health programs and services under Part II of the *Health Protection and Promotion Act*, O. Reg. 585/06, s. 1.

**PART II**  
**HEALTH PROGRAMS AND SERVICES**

**Duty of board of health**

4 Every board of health,

(a) shall superintend, provide or ensure the provision of the health programs and services required by this Act and the regulations to the persons who reside in the health unit served by the board; and

(b) shall perform such other functions as are required by or under this or any other Act. R.S.O. 1990, c. H.7, s. 4.

**Mandatory health programs and services**

5 Every board of health shall superintend, provide or ensure the provision of health programs and services in the following areas:

1. Community sanitation, to ensure the maintenance of sanitary conditions and the prevention or elimination of health hazards.

1.1 The provision of safe drinking water by small drinking water systems.

2. Control of infectious diseases and reportable diseases, including provision of immunization services to children and adults.

3. Health promotion, health protection and disease and injury prevention, including the prevention and control of cardiovascular disease, cancer, AIDS and other diseases.

4. Family health, including,

i. counselling services,

ii. family planning services,

iii. health services to infants, pregnant women in high risk health categories and the elderly,

iv. preschool and school health services, including dental services,

v. screening programs to reduce the morbidity and mortality of disease,

vi. tobacco use prevention programs, and

vii. nutrition services.

4.1 Collection and analysis of epidemiological data.

4.2 Such additional health programs and services as are prescribed by the regulations.

### **School pupils**

6 (1) Every board of health shall provide such of the health programs and services as are prescribed by the regulations for the purposes of this section to the pupils attending schools within the health unit served by the board of health. R.S.O. 1990, c. H.7, s. 6 (1).

### **Consent of school**

(2) Subsection (1) does not apply in respect of pupils attending a school unless the person or organization that operates the school has agreed to the provision of the particular health program or service to the pupils attending the school. R.S.O. 1990, c. H.7, s. 6 (2).

### **Application of subs. (1)**

(3) Subsection (1) applies only in respect of the classifications of pupils prescribed by the regulations in respect of a health program or service. R.S.O. 1990, c. H.7, s. 6 (3).

### **Prohibition**

(4) Where a board of health is required by this Act or the regulations, on request of a person or organization that operates a school, to provide or ensure the provision of a health program or service, no person or organization that operates a school in the health unit served by the board of health shall provide or ensure the provision of the health program or service to a pupil in the school without the approval of the medical officer of health for the health unit. R.S.O. 1990, c. H.7, s. 6 (4).

### **Separate school rights preserved**

(5) Subsections (1) to (4) shall not be construed to adversely affect any right or privilege respecting separate schools enjoyed by separate school boards or their supporters under the *Constitution Act, 1867* and the *Education Act*. R.S.O. 1990, c. H.7, s. 6 (5).

### **Optional health programs and services**

9 A board of health may provide any other health program or service in any area in the health unit served by the board of health if,

- (a) the board of health is of the opinion that the health program or service is necessary or desirable, having regard to the needs of persons in the area; and
- (b) the councils of the municipalities in the area approve of the provision of the health program or service. R.S.O. 1990, c. H.7, s. 9.