



City of Hamilton

AUDIT, FINANCE AND ADMINISTRATION COMMITTEE REVISED

Meeting #: 18-011
Date: August 15, 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

	Pages
1. APPROVAL OF AGENDA	
(Added Items, if applicable, will be noted with *)	
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9. MOTIONS

10. NOTICES OF MOTION

11. GENERAL INFORMATION / OTHER BUSINESS

11.1 Outstanding Business List:

11.1.a Items considered complete and needing to be removed:

Staff Reports Respecting Supplement Taxes and Assessment
Complaints Respecting 500 Eastport Blvd
(Item 8.2 on today's agenda)
Item on OBL: J

*Trillium Housing - Development Charges
(Added Item 8.5 on today's agenda)
Item on OBL: N

12. PRIVATE AND CONFIDENTIAL

12.1 Closed Minutes - July 11, 2018

Pursuant to Section 8.1, Sub-section (f) of the City's Procedural By-law 14-300, and Section 239(2), Sub-sections (f) and (k) of the *Ontario Municipal Act*, 2001, as amended, as the subject matter pertains to advice that is subject to solicitor/client privileges, including communications necessary for that purpose; and a position, plan, procedure, criteria or instruction to be applied to any negotiations carried on or to be carried on by or on behalf of the municipality or local board.

12.2 Commercial Relationship Between City of Hamilton and Primary Response Inc. (LS18040 / FCS18063) (City Wide)

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 municipality or local board; and advice that is subject to solicitor/client privileges, including communications necessary for that purpose.

13. ADJOURNMENT



AUDIT, FINANCE AND ADMINISTRATION COMMITTEE MINUTES 18-010

**9:30 a.m.
July 11, 2018
Council Chambers
Hamilton City Hall**

Present: Councillors A. VanderBeek (Chair), B. Johnson, M. Pearson,
L. Ferguson, C. Collins, and A. Johnson

THE FOLLOWING ITEMS WERE REFERRED TO COUNCIL FOR CONSIDERATION:

**1. Treasurer's Apportionment of Land Taxes (FCS18066) (Wards 9, 12 and 14)
(Item 5.2)**

(B. Johnson/Ferguson)

- (a) That the 2017 land taxes in the amount of \$1,667 for 54-56 Narbonne Crescent, Stoney Creek (Roll #2518 003 650 36300 0000) be apportioned and split amongst the two newly created parcels as set out in Appendix "A" to Report FCS18066;
- (b) That the 2017 land taxes in the amount of \$1,667 for 34-36 Narbonne Crescent, Stoney Creek (Roll #2518 003 650 36305 0000) be apportioned and split amongst the two newly created parcels as set out in Appendix "A" to Report FCS18066;
- (c) That the 2017 land taxes in the amount of \$1,971 for 26-28 Narbonne Crescent, Stoney Creek (Roll #2518 003 650 36307 0000) be apportioned and split amongst the two newly created parcels as set out in Appendix "A" to Report FCS18066;
- (d) That the 2016 land taxes in the amount of \$17,092 for 941 Sulphur Springs Road, Ancaster (Roll #2518 140 130 23600 0000), and 509-575 Lions Club Road, Ancaster (Roll #2518 140 130 24400) be apportioned and split amongst the three newly created parcels as set out in Appendix "A" to Report FCS18066;
- (e) That the 2017 land taxes in the amount of \$3,956 for 2952 Power Line Road, Ancaster (Roll #2518 140 210 20100 0000) be apportioned and split amongst the two newly created parcels as set out in Appendix "A" to Report FCS18066;
- (f) That the 2017 land taxes in the amount of \$4,300 for 41-49 Dodman Crescent, Ancaster (Roll #2518 140 380 04811 0000) be apportioned and

split amongst the five newly created parcels as set out in Appendix "A" to Report FCS18066.

CARRIED

2. Parkland Dedication Reserve Status Report as of December 31, 2017 (FCS18061) (City Wide) (Item 5.3)

(Pearson/Collins)

- (a) That Report FCS18061 "Parkland Dedication Reserve Status Report as of December 31, 2017" be received and made available to the public;
- (b) That Report FCS18061 "Parkland Dedication Reserve Status Report as of December 31, 2017" be forwarded, if requested, to the Ministry of Municipal Affairs and Housing.

CARRIED

3. Armoured Car Services - Authorization to Negotiate (FCS18069) (City Wide) (Item 5.4)

(Ferguson/Pearson)

- (a) That the General Manager of Finance and Corporate Services, or their designate, be authorized to negotiate a five year contract with Brink's Canada Limited to provide armoured car services to the City of Hamilton.
- (b) That the General Manager of Finance and Corporate Services be authorized to enter into and execute any required contract and any ancillary documents required to give effect thereto with Brink's Canada Limited, in a form satisfactory to the City Solicitor.

CARRIED

4. City of Hamilton Development Charges By-law 14-153 - Industrial Development Expansion Policy Amendment (FCS18053(a)) (City Wide) (Item 6.1)

(Pearson/Collins)

- (a) That no further Public Meeting is required with respect to the By-law attached hereto as Appendix "A";
- (b) That the By-law, attached hereto as Appendix "A" to Report FCS18053(a), prepared in a form satisfactory to the City Solicitor, be passed and enacted.

CARRIED

5. Tax and Rate Operating Budget Variance Report as at April 30, 2018 - Budget Control Policy Transfers (FCS18067) (City Wide) (Item 7.1)

(B. Johnson/Pearson)

That, in accordance with the "Budgeted Complement Control Policy", the 2018 complement transfers from one department / division to another with no impact on the levy, as outlined in Appendix "C" to Report FCS18067, be approved.

CARRIED

6. Governance Review Sub-Committee Report 18-003 (Item 8.1)

(Pearson/B. Johnson)

(i) Appointment of Vice-Chair to the Governance Review Sub-Committee (Item 1.1)

That Councillor VanderBeek be appointed as Vice-Chair to the Governance Review Sub-Committee for the balance of the 2014 – 2018 term of Council.

(ii) Council Vacancy – Office of Councillor Ward 7 (CL18008) (Ward 7) (Item 10.1(a))

That Report CL18008, respecting Council Vacancy – Office of Councillor Ward 7, be received.

CARRIED

7. 2017 Reserve Report (FCS18064) (City Wide) (Item 8.2)

(Ferguson/Collins)

(a) That the 2017 Reserve Report and the 2017 Reserves Detail Report, with 2016 Comparative figures and 2018-2020 Projections, attached as Appendix “A” to Report FCS18064, be approved;

(b) That the reserves listed in Appendix “B” to Report FCS18064 be closed and the outstanding balances be transferred as outlined in Appendix “B” to Report FCS18064;

(c) That the reserves listed in Appendix “C” to Report FCS18064 be renamed and their purposes updated as outlined in Appendix “C” to Report FCS18064.

CARRIED

8. Reserve Policies Update (FCS18065) (City Wide) (Item 8.3)

(Pearson/A. Johnson)

(a) That the Reserve Policy for the Property Purchases Reserve (100035), attached as Appendix “A” to Report FCS18065, be approved;

(b) That the Reserve Policy for the City Enrichment Fund Reserve (112230), attached as Appendix “B” to Report FCS18065, be approved;

(c) That the Reserve Policy for the Waterpark Reserve (112224), attached as Appendix “C” to Report FCS18065, be approved;

(d) That the Reserve Policy for the Cemetery Niche Reserve (104105), attached as Appendix “D” to Report FCS18065, be approved;

(e) That the Reserve Policy for the General Park, Marina and Waterfront Reserve (112201), attached as Appendix “E” to Report FCS18065, be approved;

- (f) That the Reserve Policy for the Leash Free Park Reserve (112202), attached as Appendix "F" to Report FCS18065, be approved;
- (g) That the Reserve Policy for the 47 Guise Street Reserve (112209), attached as Appendix "G" to Report FCS18065, be approved.

CARRIED

9. Committee Against Racism Membership (Item 9.1)

(Pearson/Collins)

WHEREAS, the Committee Against Racism is having challenges in obtaining quorum for their meetings;

WHEREAS, David Jacob has submitted their resignation for the Committee Against Racism;

THEREFORE BE IT RESOLVED:

- (a) That David Jacob be removed as a member of the Committee Against Racism; and
- (b) That the membership number of the Committee Against Racism be adjusted accordingly in order to obtain quorum.

CARRIED

10. Commercial Relationship Between the City of Hamilton and Algoma Contractors Inc. (LS18041 / FCS18070) (City Wide) (Item 12.1)

(B. Johnson/Pearson)

- (c) That the contents of Report LS18041 / FCS18070 remain confidential; and
- (d) That the recommendations of Report LS18041 / FCS18070, respecting "Commercial Relationship Between City of Hamilton and Algoma Contractors Inc" be approved and the recommendations remain private and confidential until approved by Council.

CARRIED

11. Trunked Two-Way Radio System Upgrade (FCS18068 / HSC18037) (City Wide) (Item 12.2)

(Collins/Pearson)

- (b) That the contents and recommendations of Report FCS18068 / HSC18037, respecting Trunked Two-Way Radio System Upgrade, remain confidential.

CARRIED

FOR INFORMATION:

(a) CHANGES TO THE AGENDA (Item 1)

The Committee Clerk advised of the follow change to the agenda:

1. DELEGATION REQUESTS

- 4.2 Matthew Kelly, respecting a Risk Management Claim for pothole damage (For a future meeting)
- 4.3 Eugene Fortino, Algoma Contractors Inc., respecting the Commercial Relationship Between the City of Hamilton and Algoma Contractors Inc., Item 12.2 on today's agenda (For today's meeting)
- 4.4 Anthony Godlewski, respecting a \$5,000 water bill at 92 East 15th Street (For a future meeting)

2. PUBLIC HEARINGS / DELEGATIONS

- 6.1(a)(a) Written submission from Shekar Chandrashekar respecting the proposed amendments to the Development Charges By-law.

3. ITEMS TO BE WITHDRAWN

- 8.4 Development Charge Exemption Request from Trillium Housing (FCS18072 / HSC18040) (City Wide) (Outstanding Business List Item)

Staff have advised that this item has been withdrawn from today's agenda and will be placed on the August 15th, 2018 Audit, Finance & Administration Committee Agenda.

- 11.1(a) Outstanding Business List – Items considered complete and needing to be removed:

Trillium Housing - Development Charges
(Item 8.4 on today's agenda)
Item on OBL: N

Related to Item 8.4 and will be placed on the August 15th, 2018 Audit, Finance & Administration Committee Agenda.

(Collins/A. Johnson)

That the agenda for the July 11, 2018 Audit, Finance and Administration Committee meeting be approved, as amended.

CARRIED

(b) DECLARATIONS OF INTEREST (Item 2)

There were no declarations of interest.

(c) APPROVAL OF MINUTES OF PREVIOUS MEETING (Item 3)

(i) June 25, 2018 (Item 3.1)

(Ferguson/Pearson)

That the Minutes of the June 25, 2018 meeting of the Audit, Finance and Administration Committee be approved, as presented.

CARRIED

(d) DELEGATION REQUESTS (Item 4)

(i) Dominic Sorbara, respecting a residential water billing dispute (For a future meeting) (Item 4.1)

(B. Johnson/Collins)

That the delegation request from Dominic Sorbara, respecting a residential water billing dispute, be approved for a future meeting.

CARRIED

(ii) Matthew Kelly, respecting a Risk Management Claim for pothole damage (For a future meeting) (Added Item 4.2)

(Collins/Pearson)

That the delegation request from Matthew Kelly, respecting a Risk Management Claim for pothole damage, be approved for a future meeting.

CARRIED

(iii) Eugene Fortino, Algoma Contractors Inc., respecting the Commercial Relationship Between the City of Hamilton and Algoma Contractors Inc., Item 12.2 on today's agenda (For today's meeting) (Added Item 4.3)

(Ferguson/Pearson)

That the delegation request from Eugene Fortino, Algoma Contractors Inc., respecting the Commercial Relationship Between the City of Hamilton and Algoma Contractors Inc., Item 12.2 on today's agenda, be approved for today's meeting.

CARRIED

(iv) Anthony Godlewski, respecting a \$5,000 water bill at 92 East 15th Street (For a future meeting) (Added Item 4.4)

(B. Johnson/A. Johnson)

That the delegation request from Anthony Godlewski, respecting a \$5,000 water bill at 92 East 15th Street, be approved for a future meeting.

CARRIED

(e) CONSENT ITEMS (Item 5)

(i) **Lesbian, Gay, Bisexual, Transgender and Queer Advisory Committee Minutes – February 15, 2018 (Item 5.1)**

(A. Johnson/Ferguson)

That the Lesbian, Gay, Bisexual, Transgender and Queer Advisory Committee Minutes from the February 15, 2018 meeting, be received.

CARRIED

(f) **PUBLIC HEARINGS/DELEGATIONS (Item 6)**

(i) **City of Hamilton Development Charges By-law 14-153 - Industrial Development Expansion Policy Amendment (FCS18053(a)) (City Wide) (Item 6.1)**

Chair VanderBeek advised that Item 6.1 was a public meeting pursuant to Section 12 of the Development Charges Act, 1997, to present and obtain public input on the City's proposed amendment to the Development Charges By-law. The Chair further advised that notice of the public meeting was published in the Hamilton Spectator on June 8, 2018 and the Hamilton Community News on June 7, 2018, inviting interested parties to make representations at today's meeting. Any person in attendance can make representations relating to the proposed amendment to the Development Charges By-law.

Delegations

6.1(a) Shekar Chandrashekar

Shekar Chandrashekar, addressed the Committee respecting the proposed amendment to the Development Charges By-law.

(Pearson/A. Johnson)

That the delegations be received.

CARRIED

Written Submission

6.1(a)(a) Shekar Chandrashekar provided a written submission respecting the proposed amendments to the Development Charges By-law.

(Pearson/A. Johnson)

That the added written submission Item 6.1(a)(a) be received.

CARRIED

(Ferguson/B. Johnson)

That the public meeting be closed.

CARRIED

For further disposition of this matter, refer to Item 4.

(ii) **Eugene Fortino, Algoma Contractors Inc., respecting the Commercial Relationship Between the City of Hamilton and Algoma Contractors**

Inc., Item 12.2 on today's agenda (For today's meeting) (Added Item 6.2)

Eugene Fortino from Algoma Contractors Inc., addressed the committee respecting the Commercial Relationship Between the City of Hamilton and Algoma Contractors Inc., Item 12.2 on today's agenda.

(Collins/Ferguson)

That Eugene Fortino be permitted to address the committee for an additional 5 minutes in order to complete his presentation.

CARRIED

(Pearson/A. Johnson)

That the delegation from Eugene Fortino, Algoma Contractors Inc., respecting the Commercial Relationship Between the City of Hamilton and Algoma Contractors Inc, Item 12.2 on today's agenda, be received.

CARRIED

(g) STAFF PRESENTATIONS (Item 7)

(i) Tax and Rate Operating Budget Variance Report as at April 30, 2018 - Budget Control Policy Transfers (FCS18067) (City Wide) (Item 7.1)

Brian McMullen, addressed the Committee respecting Tax and Rate Operating Budget Variance Report as at April 30, 2018 - Budget Control Policy Transfers, with the aid of a presentation. A copy of the presentation has been included in the official record.

(Pearson/B. Johnson)

That the presentation from Brian McMullen respecting Tax and Rate Operating Budget Variance Report as at April 30, 2018 - Budget Control Policy Transfers, be received.

CARRIED

A copy of the presentation is available at www.hamilton.ca.

For further disposition of this matter, refer to Item 5.

(h) PRIVATE & CONFIDENTIAL (Item 12)

(Collins/Pearson)

That Committee move into Closed Session respecting Items 12.1 and 12.2 pursuant to Section 8.1, Sub-section (f) of the City's Procedural By-law 14-300, and Section 239(2), Sub-sections (f) and (k) of the *Ontario Municipal Act*, 2001, as amended, as the subject matter pertains to advice that is subject to solicitor/client privileges, including communications necessary for that purpose; and a position, plan, procedure, criteria or instruction to be applied to any negotiations carried on or to be carried on by or on behalf of the municipality or local board.

CARRIED

(i) Commercial Relationship Between the City of Hamilton and Algoma Contractors Inc. (LS18041 / FCS18070) (City Wide) (Item 12.1)

Staff were provided with direction in Closed Session.

For further disposition of this matter, refer to Item 10.

(ii) Trunked Two-Way Radio System Upgrade (FCS18068 / HSC18037) (City Wide) (Item 12.2)

Staff were provided with direction in Closed Session.

For further disposition of this matter, refer to Item 11.

(i) ADJOURNMENT (Item 13)

(Ferguson/Pearson)

That, there being no further business, the Audit, Finance and Administration Committee, be adjourned at 10:36 a.m.

CARRIED

Respectfully submitted,

Councillor VanderBeek, Chair
Audit, Finance and Administration
Committee

Angela McRae
Legislative Coordinator
Office of the City Clerk

Form: Request to Speak to Committee of Council

Submitted on Thursday, July 26, 2018 – 1:37 pm

==Committee Requested==

Committee: Audit, Finance & Administration

==Requestor Information==

Name of Individual: Robert Zeidler

Name of Organization: 2418032 Ontario Limited

Contact Number: (905) 547-8256

Email Address: rob@dabbert.ca

Mailing Address: 270 Sherman Ave. N., Suite 301

Reason(s) for delegation request: Requesting refund on excessive water charges caused by City water line replacement near the Cotton Factory at 270 Sherman Ave. N.

Will you be requesting funds from the City? Yes

Will you be submitting a formal presentation? Yes

Form: Request to Speak to Committee of Council

Submitted on Friday, August 10, 2018 - 12:15 pm

==Committee Requested==

Committee: Audit, Finance & Administration

==Requestor Information==

Name of Individual: Joe Deschênes Smith

Name of Organization: Trillium Housing

Contact Number: 416 363 3144

Email Address: jds@trilliumhousing.ca

Mailing Address:

7 Labatt Ave Suite 209 H

Toronto, ON, M5A 1Z1

Reason(s) for delegation request:

I wish to speak to item 11.1 a Trillium Housing Development Charges scheduled at the next meeting on Wed. August 15. I have selected NO to request for funds below as my request is for the City to implement the existing bylaw and provide our eligible affordable housing project with the DC relief provided for in the existing bylaw.

Many thanks, Joe Deschênes Smith

Will you be requesting funds from the City? No

Will you be submitting a formal presentation? No

4.3

Form: Request to Speak to Committee of Council

Submitted on Monday, August 13, 2018 - 11:19 am

==Committee Requested==

Committee: Audit, Finance & Administration

==Requestor Information==

Name of Individual: Amir Atri

Name of Organization: Garda Canada Security Corp
(GardaWorld)

Contact Number:

Email Address: Amir.Atri@garda.com

Mailing Address: 54 Centennial Parkway N, Hamilton, ON
Canada, L8E 1H6

Reason(s) for delegation request:

In response to letter sent dated August 1 2018 Re: Commercial Relationship between Primary Response Inc. and City of Hamilton. Garda Canada Security Corp purchased Primary Response in mid Jan 2018 and the letter sent by Tina Iacoe states that the commercial relationship between the City and Primary Response has been impaired. It further recommends a non-acceptance of future commercial relationship / bids with any "related" corporate entity of Primary Response. I had sent a request to Tina to clarify if Garda Canada Security Corp who purchased Primary Response Inc would be considered a "related corporate entity" and I did not receive a response. I would like to appear on behalf of Garda Canada Security Corp to clarify and to ensure our commercial relationship with the City is not impacted.

Will you be requesting funds from the City? No

Will you be submitting a formal presentation? No



Hamilton

Minutes

IMMIGRANT & REFUGEE ADVISORY COMMITTEE

Thursday June 14, 2018

City Hall, 71 Main St. W., Room 192/193, 6:30pm

5.1(a)

Present: Zenaida Roque Cruz, Suad Badri, Eman Ismail-Elmasri, Holly McKean, Marie Robbins, Sam Abraham, Beau Daniels, Mir Islam, Yohana Otite

Also Present: Nadia Olivieri, Human Rights, Grace Maciak

Regrets: Dena Honig, Amed Farah, Mané Arratia, Huzaifa Saeed

Absent: Leo Johnson, Ramon Petgrave (LOA), Noor Nizam

Chair: Zenaida Roque Cruz
Welcome and Introductions (7:15 pm)

**1. Approval of the Agenda
 (M. Robins/E, Elmasri)**

Approve the minutes as presented

CARRIED

2. Declarations of Interest – None declared

**3. Approval of Minutes
 (H. Mclean/Y. Otite)**

Immigrant and Refugee Meeting Minutes – March 15, 2018

CARRIED

4. Presentations

4.1 *Scott Jones from Micah House – Deferred*

5. Business / Discussion Items

5.1 Attendance – Deferred

5.1.1.1 Child minding services- costs confirmation-defer

5.1.1.2 Resignations to be accepted (4)

MOTION:

(S. Badri / M. Islam)

The members of the Immigration and Refugee accept the following resignations:

1. Noor Nizam – lack of attendance
2. Ramon Petgrave – formally resigned due to competing issues

3. Huzaifa Saeed- took an out of town job and will be moving
4. Ahmed Farah – work schedule interfering with ability to attend meetings

CARRIED

5.2 Open House Working Group Update (July 27, 2018)

- Reviewed participant list
- There are 26 vendors who have signed up
- Volunteers identified to assist with the day
- Eman to create I&R signs, Beau to set up

5.2.1.1 Review invitation list/ email bounce backs

- No issues as there are many vendors already registered

5.3 Housing Working Group Update – Deferred

5.3.1.1 AF&A dates (for I&R HWG)

- Zenaida discussed presentation to AF&A on May 17, 2018
- Zenaida will collect any additional info from Mikah house
- General themes – training for staff, funding for shelters and housing, also supporting JVN Developments and touch points for information sharing (such as schools, places of worship)
- Zenaida will pull all relevant information to support recommendation
- Suad reported that this is good time to send recommendation to Housing Strategy Ontario – she will be sending a link to the Staff Liaison

5.4 Employment Working Group Update – Deferred

5.5 Education Working Group Update – Deferred

5.5.1.1 Invitation Status (Grace Mater)

5.6 Presenting to Council - Deferred

5.6.1.1 2018 Work plan

5.7 Outstanding Business Items – Deferred

6. Other Business

- 6.1 Summer months meetings – will meet with in July but not in August 2018

7. Adjournment

(S. Abraham/ B. Daniels)

That the June 14, 2018 I & R meeting adjourned at 7:45pm

Next Meeting: Thursday, July 11, 2018 6:30 pm

**Meeting in August 2018 is cancelled*



**MINUTES: Hamilton Mundialization Advisory Committee
Wednesday, March 21, 2018 – 6:00 p.m.
Hamilton City Hall, Room 192**

Present: Rein Ende, Bob Semkow, Nick van Velzen, Jan Lukas, Ron Vine

Regrets: Ramon Petgrave (LOA), Councilor Arlene VanderBeek, Pat Semkow

Absent: Leo Johnson

Also Present: Nadia Olivieri, Staff Liaison

Guests: n/a

WELCOME & INTRODUCTIONS

Declaration of Land Acknowledgement Statement

**1. APPROVAL OF THE AGENDA
(B. Semkow/N. van Velzen)**

That the Hamilton Mundialization Advisory Committee agenda of March 21, 2018 be approved as amended.

- (i) Move 5.1.7 up to item 5.1.0

CARRIED

2. DECLARATIONS OF INTEREST- n/a

3. APPROVAL OF MINUTES

3.1. Minutes of February 21, 2018

(J. Lukas/ R. Ende)

That the Minutes of February 21, 2018 be approved as presented.

CARRIED

4. PRESENTATIONS-none

5. DISCUSSION ITEMS

5.1. 2018 Activity Plan

5.1.0. Gandhi Peace Festival – Next meeting is scheduled on April 8, 2018. Tentative date for the Festival is Saturday September 29, 2018

5.1.1. Confirm priority discussion items for April, May and June meetings

- April meeting- Focus on developing a policy for member subsidization to appropriate events; discuss accessible



Hamilton

parking, photo contest, display cabinets. (Contact Richard Barlas.) Liaison to reserve the public cabinet for August 2018

- May meeting cancelled
 - June meeting- future of WCA
- 5.1.2. World Citizenship Award Updates
- Evening layout to be confirmed
 - Rein will provide Staff Liaison with evening agenda- provide role for Mayor and Cllr Arlene VanderBeek
 - Suggestion for a certificate for other candidates to be considered
 - Press release (handed to J. Lukas for distribution)
 - Pre-event press release to be provided to media
 - Chair will also put a reminder in the Hamilton Spectator upcoming event
 - Chair to contact the Spectator and Staff Liaison about a possible OpEd.
- 5.1.3. Kaga/Dundas 50th Anniversary events-
-via the Chair, Staff Liaison connected Kaga City (Mako Komano) representative with the Mayor's office.
- 5.1.4. Other 2018 Twin City Anniversaries- No one has contacted Staff Liaison regarding additional anniversary celebrations Liaison to see if the budget allocation has been approved as presented (specifically if the request to allocate any expenses against the reserve has been approved)
- 5.1.5. Other 2018 Twin City events-n/a
- 5.1.6. Hiroshima – Nagasaki Event (Dundas City Council Aug 9 10:00 am – 3:00pm)
- With respect to the 2nd floor set up and tear down, consider using 2nd floor as a last resort
 - Planning committee for event likely meeting for end of May
- 5.1.7. Food and beverage Guideline
- Reviewed by Committee. Take recommendations of the Food and Beverage under advisement.

6. OTHER BUSINESS

6.1. Information sharing

- 6.1.1. Nanning City twinning request response- Liaison read correspondence between Liaison and Nanning City representative
- 6.1.2. Letter to Mayor Fred Eisenberg re the contribution of the late Bob Morrow, hand delivered by Chair to Mayor's office.
- 6.1.3. Other events



Hamilton



- May 1, 2018 Community Prayer Breakfast 7:30 am – 9:00 am Liuna Station
- Guest speakers include recent refugees and Holocaust survivors- tickets on sale for \$20.00
- Peace Lunch – next Wednesday 11:30 am – 30 -50 people brought together for peace or peace initiative – Unitarian Church
- HIPC/ Lunch Friday March 23, 2018 11:30 -1:30 pm

7. ADJOURNMENT

(B. Semkow/ N. van Velzen)

That the March 21, 2018 meeting of Mundialization be adjourned. **7:24pm**

CARRIED

**NEXT MEETING: April 18, 2018, 6:00 p.m. (get parking for Jan)
Hamilton City Hall, Room 192**



Hamilton

- MINUTES -
COMMITTEE AGAINST RACISM
Tuesday, March 27, 2018, 6:30 p.m.
City Hall, 71 Main Street West, Room 192

Present: Marlene Dei-Amoah, Janice Webster, Tyrone Childs, Daniel Ramos, Ashok Kumar, Taimur Qasim, Louic LeBlanc, Nerene Virgin, Jessica Brennan

Regrets: Councillor Lloyd Ferguson, Steve Petgrave, Winston Morrison

Absent: Joseph Scott, Councillor Doug Conley

Also Present: Betsy Pocop, Jodi Koch – staff, Human Rights, Diversity and Inclusion
 Princewill Ogban – Hamilton Anti-Racism Resource Centre

Chair: M. Dei-Amoah

Welcome & Introductions

Welcome of members and guests

1. Changes to the Agenda

- Addition of Item 6.2 – D. Ramos about communication

2. Declaration of Interest

None declared

3. Approval of Minutes

3.1 February 27, 2018

To reflect changes to January 23, 2018 meeting minutes

- Revision of wording to Item 5.3.6
 - Oversight Committee to provide the HARRC Steering Committee with Terms of Reference for the roles and responsibilities of their committee

A. Kumar/L. LeBlanc

That the Committee Against Racism's minutes of February 27, 2018 be accepted, as amended.

CARRIED

4. Presentations

4.1 Hamilton Racialized Communities Strategy

- P. Ogban will introduce himself and be presenting as a speaker on behalf of the Anti-Racism Resource Centre at the Town hall on March 29
- Event information: there is a strategy for legal support for racialized communities
- Legal Aid Ontario came to Hamilton last fall and have toured around the province; they will be coming to Hamilton as a follow up to their previous visit
- Goal is to have groups of interest work together on the development of a strategy and there is an opportunity to connect with HARRC

5. Business/ Discussion Items

5.1 Anti-Racism Resource Centre Update

5.1.1 HARRC Launch

- P. Ogban provided update
- P. Ogban is working with Yohana Otite of HCCI in preparing for the HARR launch
- Draft agenda for the launch is being prepared
- M. Dei-Amoah will have video prepared to show at launch as she will be unable to attend
- Food options are being explored and quotes obtained from possible vendors
- Feedback: that the launch is representative of the culturally diverse community in Hamilton as the Resource Centre is for the community
- Invitation to be extended to additional guest speakers from the community
- Staff to ask Indigenous Elder to provide opening for the launch event

5.1.2 Steering Committee Update

- Development of a social media profile for HARRC
- Website domain has been secured and the Resource Centre will move forward with the HARRC acronym for branding

5.1.3 Funding Agreement

- Highlighted in conversation: Milestones and budget
- Copies of the agreement are available for Committee members viewing upon request
- Request from the CAR members to have milestones update accordingly
- Clarification provided that the start date of the Centre was the date it began to incur costs (i.e. HARRC Lead began employment – February 26, 2018)

- CAR members proposed two motions associated with the funding agreement however did not have quorum at this point in the meeting to move them forward

Motion

That the Oversight Committee provides an updated list of milestones to CAR

Motion

That CAR members who keep copies of the funding agreement keep the information confidential and return their copies at the end of the Committee term

5.2 CAR Brochure

- Committee brochure to be updated
- Staff to have business cards with Committee information prepared for distribution at the HARRC launch in the meantime

5.3 EXCEerator Project Report

- Item removed from the agenda; request made to speak about CCAR presentation instead as an additional item under Announcements/Information Sharing

5.4 Lincoln Alexander Day

- No update at this time

5.5 Black History Month

- N. Virgin provided update of her work with schools and with the Hamilton school board
- Members decided to make Black History Month a standing item on the agenda to explore future collaboration with community partners

5.6 Member resignation

- Resignation shared with the Committee though deferred to April meeting for acceptance due to quorum

6. Announcements/Information Sharing

6.1 March 18th Community Event

- CAR members were in attendance
- Positive feedback and it was well attended

6.2 Communication

- D. Ramos wish to speak about communication amongst the group, indicated his item had been addressed through conversation during the meeting

6.3 CCAR presentation to Council

- J. Webster provided update and points raised by Ken Stone of CCAR requesting HARRC address issues

- CCAR presentation was received at Council and staff report is expected for follow up
- Clarification provided: HARRC is currently set up to gather data and cannot fulfil requests presented by CCAR; community is welcome to provide input and data for analysis

7. Adjournment

Meeting adjourned at 9:00pm.



Hamilton

- MINUTES -
COMMITTEE AGAINST RACISM
Thursday, July 5, 2018, 5:00 p.m.
City Hall, 71 Main Street West, Room 264

Present: Marlene Dei-Amoah, Janice Webster, Tyrone Childs, Taimur Qasim, Nerene Virgin, Jessica Brennan, Winston Morrison, Joseph Scott, Daniel Ramos

Regrets: Steve Petgrave, Ashok Kumar, Louic Leblanc

Also Present: Betsy Pocop – staff, Human Rights, Diversity and Inclusion
 Princewill Ogban – Hamilton Anti-Racism Resource Centre

Chair: M. Dei-Amoah

Welcome & Introductions

Welcome of members and guests

1. Declaration of Interest

None declared

2. Approval of Minutes

2.1 March 27, 2018

- Clarification – resignation listed on the July 5 agenda was the resignation presented to the Committee in March for acceptance however was deferred due to quorum
- Item 5.1.3 – costs incurred at the HARRC as of February 26, 2018
- Correction- W. Morrison and Councillor Conley absent from the meeting

J. Brennan/N. Virgin

That the Committee Against Racism’s minutes of March 27, 2018 be accepted, as amended.

CARRIED

2.2 Changes to the Agenda

- Addition of Item 3.4 – CAR Brochure

3. Business/ Discussion Items

3.1 HARRC Steering Committee Applicants Review

- A brief summary was provided to CAR members about the applications received for the HARRC Steering Committee
- The floor was opened for CAR members to ask questions
- Will the Steering Committee be looking to expand its membership?
 - The Steering Committee will start with five members then expand to add more members
 - There will be consultation with the HARRC Lead to identify needed skillsets and have targeted recruitment at a future date

N. Virgin/J. Brennan

That the Committee Against Racism accepts Malak Askar, Tarek Ajak, Pauline Kajiura, Marla Brown, and Imrana Alamgir to join the Hamilton Anti-Racism Resource Centre Steering Committee

CARRIED

3.2 Member Resignation

J. Webster/J. Scott

That the Committee Against Racism accepts the resignation of Committee member, David Jacob.

CARRIED

3.3 HARRC Updates

3.3.1 Quarterly Updates

- P. Ogban provided an update
- To date: there have been 19 individual intakes/referrals, 21 ethno-racial consultations, 4 presentations
- A draft report has been prepared and will be shared with the Committee when completed
- P. Ogban will send final report to B. Pocop for distribution to the Committee members
- Annual Discussion Forum will be held July 11 at McMaster University from 4-6pm in room 230 at the Student Centre
- P. Ogban will advise if parking passes will be available
- Invited: CAR members, steering committee, oversight committee, Dr. Ameil Joseph, Yohana Otite
- An agenda will be developed as a guide but the discussion will be open

3.3.2 Three Year Strategic Plan

- P. Ogban presented the HARRC's Strategic Plan
- P. Ogban open to input, any input can be sent to P. Ogban via email
- Social media (Facebook, Twitter) has been set up for the Centre, and a website is currently being worked on

- Currently P. Ogban manages the social media presence; however, P. Ogban may have future placement students involved
- A logo has been developed for the HARRC
- The colours of the logo represent different people and different communities
- The logo will be used moving forward and will be included on a letterhead, documentation, etc.
- P. Ogban has developed documents to assist when meeting with clients (i.e. Consent form for communication with third parties for advocacy reasons, confidentiality forms)
- Intakes to date have been related to anti-black racism, employment, land claim issues, anti-Semitism
- Will have conversations with various organizations (police, school boards, post-secondary institutions, Victim Services, child welfare agencies) about the HARRC and its work
- P. Ogban will also reach out to youth organizations
- Members discussed the possibility of a potential workplan collaboration with the school board, as there were members of the school board who sat on the committee
- P. Ogban explained the matrix used at the HARRC and information obtained at intake
- Connection with post-secondary educational institutions (i.e. McMaster and Mohawk) to have another option to share their experiences outside of the institution
- Dr. Ameil Joseph's work focuses on services provided and support systems institutions have when complaints of racism come forward
- Are follow ups done with intakes?
 - There have been follow ups on intakes though the scope of the work for the lead is limited to taking intakes, making referrals and capturing data
- Follow ups would be helpful to know if the resource is helpful
- Regarding the Strategic Plan, all KPIs are important, however intakes and referrals are the priority
- There have been several ethno-racial associations in Hamilton that have reached out to P. Ogban to speak or present

3.4 CAR Brochure

- M. Dei-Amoah will review the current brochure and committee can then follow up
- T. Childs has suggestions for revisions
- B. Pocop to send copy of the brochure to M. Dei-Amoah for review

Committee Against Racism Minutes

July 5, 2018

Page 4 of 4

4. Adjournment

Meeting adjourned at 6:44pm.

Next meeting to be held on Tuesday, July 24 at 6:30pm



INFORMATION REPORT

TO:	Chair and Members Audit, Finance and Administration Committee
COMMITTEE DATE:	August 15, 2018
SUBJECT/REPORT NO:	Whistleblower Information Update for Q2 2018 (AUD18006) (City Wide)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Charles Brown CPA, CA, CPA (Illinois) 905-546-2424 x4469
SUBMITTED BY:	Charles Brown CPA, CA, CPA (Illinois) Director, Audit Services City Manager's Office
SIGNATURE:	

Council Direction:

By-law 09-227 (Whistleblower By-law), Section 19 – Responsibility of the Director of Audit Services requires a quarterly report for, in the aggregate, on the number, nature and outcome of disclosures of serious wrongdoing made under this By-law.

Information:

A standard process has been implemented by the Audit Services Division for the implementation of forms, procedures and document storage relating to the administration of the Whistleblower By-law.

This Information Report contains information about the number, nature and outcome of disclosures relating to By-law 09-227 for Q2 2018 (April – June 2018) along with historical information.

Number and Nature of Disclosures in 2018

Timeline	Categories			Total Intake
	Staff Inquiry	Whistleblower	External Inquiry	
Q1 (Jan. – Mar.)	0	0	0	0
Q2 (Apr. – Jun.)	0	0	1	1

Total Intake Volume in 2018 (January – June): 1

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SUBJECT: Whistleblower Information Update for Q2 2018 (AUD18006) (City Wide)
– Page 2 of 2

Nature and Outcomes

Q2: There was one intake activity in Q2 2018.

Number and Nature of Disclosures from 2010 – 2018

Year	Categories			Total Intake
	Staff Inquiry	Whistleblower	External Inquiry	
2010	0	2	1	3
2011	1	2	0	3
2012	1	1	1	3
2013	2	2	0	4
2014	3	2	0	5
2015	1	1	1	3
2016	1	3	1	5
2017	1	0	1	2
2018 (to June 30)	0	0	1	1
Total	10	13	6	29

The total volume from 2010 – 2018 (to June 30) for Whistleblower Intake activity was 29 items. These sustained low volumes for an organization the size of the City of Hamilton, with almost 8,000 employees, in comparison with other cities may indicate a need for further action to ensure employees are comfortable with reporting concerns.

On June 25, 2018, the Audit, Finance and Administration Committee approved the Director of Audit Services to implement a Fraud and Waste Hotline with intake performed by an independent third party as part of a three-year pilot project. Once the Hotline is implemented, intake activity will be incorporated into the quarterly whistleblower information update reports.

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CITY OF HAMILTON
CORPORATE SERVICES DEPARTMENT
Financial Services

TO:	Chair and Members Audit, Finance and Administration
COMMITTEE DATE:	August 15, 2018
SUBJECT/REPORT NO:	Treasurer's Write-off of Taxes under Section 354 of the Municipal Act, 2001 (FCS18073) (Ward 11)
WARD(S) AFFECTED:	Ward 11
PREPARED BY:	Maria Di Santo (905) 546-2424 Ext. 5254
SUBMITTED BY:	Rick Male Director, Financial Services, Taxation and Corporate Controller Finance and Corporate Services Department
SIGNATURE:	

RECOMMENDATION

That property taxes in the amount of \$6,145.01 for 1165 Green Mountain Road, Stoney Creek (Roll #2518 003 510 04200 0000) be written off under Section 354 of the Municipal Act, subject to the property being transferred back to the City of Hamilton (City), effective August 23rd, 2018, and that Alectra Utilities be refunded the property taxes paid in error.

EXECUTIVE SUMMARY

Section 354(4)(a) of the *Municipal Act, 2001* allows Council to write-off taxes “if the property is owned by Canada, a province or territory or a Crown agency of any of them or by a municipality”. In the case of 1165 Green Mountain Road (003.510.04200.0000), the property was owned by the City of Hamilton, and as such, exempt from property taxes up until it was wrongly transferred to Horizon Utilities Corporation as part of the Alectra/Horizon merger. Upon the transfer of ownership, the Municipal Property Assessment Corporation (MPAC) issued a class change from exempt to Residential taxable effective April 12, 2017. The transfer was completed in error, as Alectra misidentified the property on their asset list instead of the neighbouring transformer station parcel. The ownership of 1165 Green Mountain Road should have remained

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**SUBJECT: Treasurer's Write-off of Taxes under Section 354 of the Municipal Act,
2001 (FCS18073) (Ward 11) - Page 2 of 4**

with the City of Hamilton and not have been included in the list of properties to be transferred as part of the Alectra/Horizon merger. As such, 1165 Green Mountain Road, should have continued to be exempt and not subject to property taxes.

Alectra has consented to the return of the property to the City of Hamilton, but have requested the refund of property taxes paid to date, which totals \$6,625.68. Although the property taxes are not unpaid, it is prudent that the City agree to the refund, being that the property taxes should not have been billed in the first place.

Staff are therefore recommending the write-off of taxes for the period of April 12, 2017 (when ownership was incorrectly changed) to August 22, 2018 (when ownership will be transferred back to the City of Hamilton). Taxation staff will then submit a Municipal Act application for exemption effective August 23, 2018.

Alternatives for Consideration –Not Applicable

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: As per the following table, the property taxes to be written off total **\$6,145.01**, assuming ownership will be transferred back to the City of Hamilton effective August 23, 2018. The municipal tax portion is \$5,151.38 to be charged to HAMTN 52174-252013. The amount to be recovered from the English Public School Board is \$993.63 to be charged to HAMTN 52174-252025. Alectra Utilities has paid the 2017 total taxes levied, in addition to the first 3 instalments of the 2018 total taxes levied, totalling \$6,625.68.

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**SUBJECT: Treasurer's Write-off of Taxes under Section 354 of the Municipal Act,
2001 (FCS18073) (Ward 11) - Page 3 of 4**

2017 Property taxes - \$3,240.53			
Jan 1 - Apr 11, 2017	Exempt	\$ -	
Apr 12 - Dec 31, 2017	Residential taxable	\$3,240.53	Action - w/o under section 354 of Muni Act
		<u>\$3,240.53</u>	
2018 Property taxes - \$4,530.50			
Jan 1 - Aug 22, 2018	Residential taxable	\$2,904.48	Action - w/o under section 354 of Muni Act
Aug 23 - Dec 31, 2018	Residential taxable	\$1,626.02	Action - Municipal Act application for exemption
		<u>\$4,530.50</u>	
Total Taxes Levied (2017-2018)		\$7,771.03	
Less: write-off amount under section 354		\$6,145.01	
Municipal Act application for exemption		<u>\$1,626.02</u>	
2017 taxes paid by Alectra Utilities		\$3,240.53	
2018 taxes paid by Alectra Utilities		\$3,385.15	(first three instalments)
Total Taxes paid by Alectra Utilities		<u>\$6,625.68</u>	Action - to be refunded back to Alectra

Staffing: Not Applicable

Legal: The City's Legal Services will expedite the transfer of title back to the City of Hamilton.

HISTORICAL BACKGROUND

As part of the Alectra/Horizon merger, many properties were transferred from the City of Hamilton to Horizon Utilities Corporation and/or Alectra. The transfer of 1165 Green Mountain Road, Stoney Creek (Roll #2518 003 510 04200 0000) was completed in error.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

Municipal Act, (2001), Part XI, Section 354.

RELEVANT CONSULTATION

City of Hamilton's Legal Services

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**SUBJECT: Treasurer's Write-off of Taxes under Section 354 of the Municipal Act,
2001 (FCS18073) (Ward 11) - Page 4 of 4**

ANALYSIS AND RATIONALE FOR RECOMMENDATION

The ownership of 1165 Green Mountain Road, should have remained with the City of Hamilton, and as such, should not have been subject to property taxes. As such, Alectra Utilities should not have paid the property taxes billed. They were not aware that they owned this parcel, which is a park, and therefore had no beneficial ownership of the property. Due to this error, Alectra Utilities should be refunded the property taxes paid to date. Once ownership is transferred back to the City of Hamilton, Taxation staff will prepare a Municipal Act application for exemption as of August 23, 2018 (expected date the title of the property to be changed back to the City of Hamilton).

ALTERNATIVES FOR CONSIDERATION

Not applicable.

ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN

Community Engagement & Participation

Hamilton has an open, transparent and accessible approach to City government that engages with and empowers all citizens to be involved in their community.

Our People and Performance

Hamiltonians have a high level of trust and confidence in their City government.

APPENDICES AND SCHEDULES ATTACHED

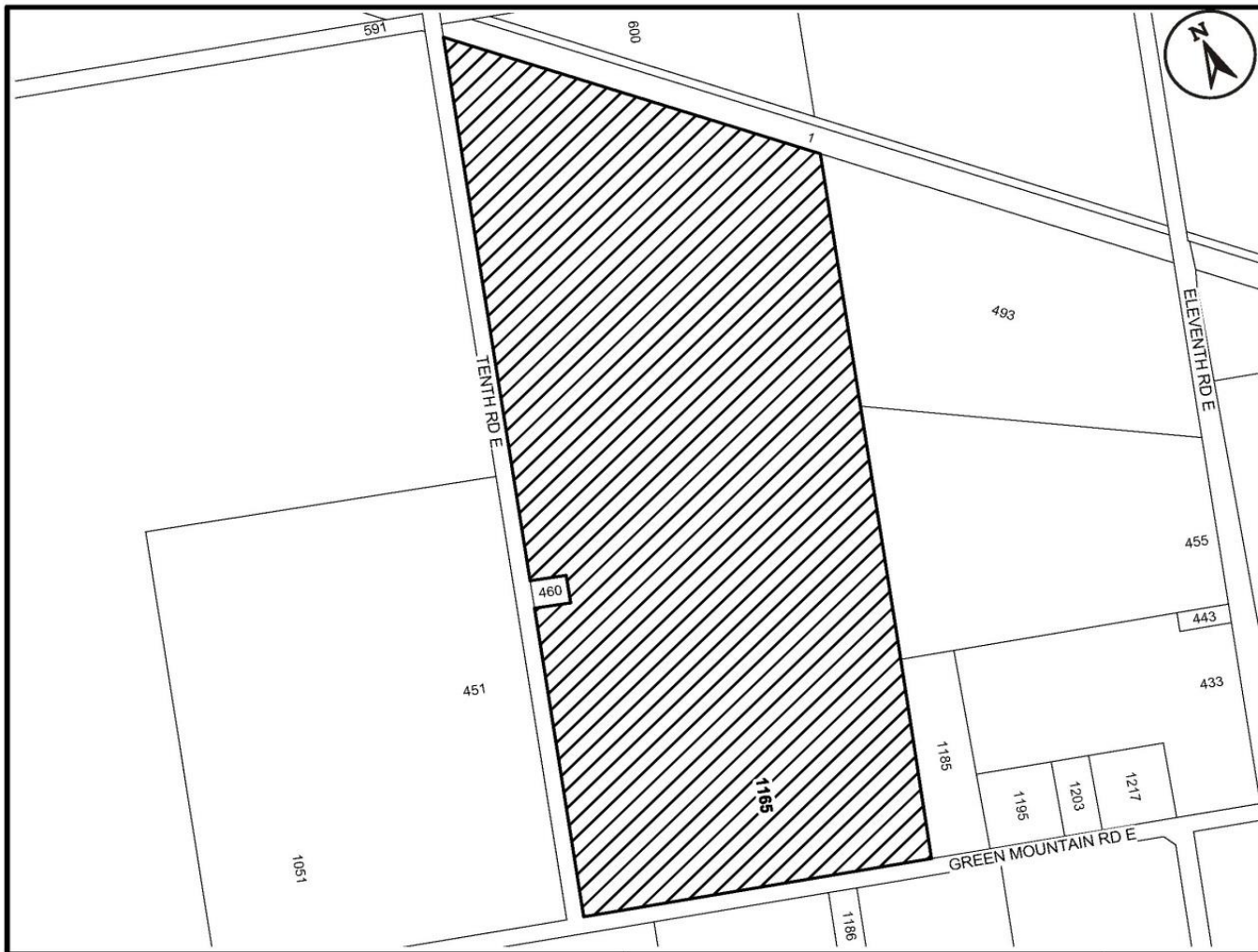
Appendix "A" to Report FCS18073 – Location map of 1165 Green Mountain Road, Stoney Creek, Roll # 003.510.04200.0000, Ward 11.

MD/dw

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● Site Location



Key Map - Ward 11

N.T.S.



Location Map



PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

File Name/Number:
1165 Green Mountain Rd

Date:
July 4, 2018

Appendix "A"

Scale:
N.T.S.

Planner/Technician:
RD/AL

Subject Property



1165 Green Mountain Road



CITY OF HAMILTON
CORPORATE SERVICES DEPARTMENT
Financial Services

TO:	Chair and Members Audit, Finance and Administration Committee
COMMITTEE DATE:	August 15, 2018
SUBJECT/REPORT NO:	Hamilton Street Railway (HSR) Pension Plan - Pension Benefit Guarantee Fund (PBGF) Exemption (FCS18075)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Barbara Howe (905) 546-2424 Ext. 5599
SUBMITTED BY:	Rick Male Director, Financial Services, Taxation and Corporate Controller Finance and Corporate Services Department
SIGNATURE:	

RECOMMENDATION

That the Mayor, on behalf of Council, send a letter to the Premier and the Minister of Finance to lobby for a retroactive exemption of Pension Benefit Guarantee Fund (PBGF) for the period 2009 to 2014 and to request a meeting with the Premier and/or Minister to discuss the matter.

EXECUTIVE SUMMARY

In 2009, The City of Hamilton (City) was deemed to be the plan sponsor for the Hamilton Street Railway (HSR) pension plan rather than Hamilton Street Railway. As such the City should have been exempt from paying Pension Benefit Guarantee Fund (PBGF) fees on this plan effective January 1, 2009. The City requested the exemption, however, it took almost six years to receive a response from the Province granting the exemption; and unfortunately, the response only provided an exemption on a go forward basis. Ultimately, this means that the City will have paid in excess of \$800,000 in PBGF fees which it should have been exempt from paying. The PBGF funds are meant to help fund the pension obligations in single employer defined pension benefit plans in the event that the plan sponsors become insolvent. It is extremely improbable that the City of Hamilton would become insolvent and as such the HSR pensioners will never be eligible to receive any benefits from the PBGF.

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**SUBJECT: Hamilton Street Railway (HSR) Pension Plan - Pension Benefit
Guarantee Fund (PBGF) Exemption (FCS18075) - Page 2 of 4**

The City engaged a Lawyer on a contingency fee basis in an attempt to have the fee exemption applied retroactively to 2009. This was not successful and now having exhausted all legal recourse available, the City will pay the 2013 and 2014 outstanding PBGF to avoid penalties and interest. The fees for 2013 and 2014 amount to \$293,880. With the change in the Provincial government, it is recommended that the Mayor continue to lobby the Premier and the new Provincial government to have the exemption applied retroactive to January 1, 2009.

Alternatives for Consideration – Not Applicable

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: The Province has provided the HSR plan an exemption from paying the PBGF fees effective January 1, 2015 onward and has denied the request for retroactivity to 2009, when the City became the plan sponsor and asked for the exemption.

The City will have paid \$832,124 in PBGF fees for the period 2009 to 2014 inclusive.

The most current valuation for the HSR pension plan shows that there is a going concern deficit of \$39 million in the plan which the City is responsible to fund. Should the City be successful in getting the PBGF exemption applied back to 2009, the recovered fees could be used to partially fund the plan deficit.

The HSR plan will require a new valuation at December 31, 2019 and under legislation any new deficits arising from the valuation can be deferred 12 months. The HSR plan is expected to continue to require special payments to fund its future deficits.

Staffing: None

Legal: The amendment to Section 47(1) of Regulation 909 to the Pension Benefit Act RSO 1990 to exempt the HSR plan came into force January 1 2016. To provide retroactivity, the Province would have to provide a subsequent amendment to the regulations.

HISTORICAL BACKGROUND

The Pension Benefit Guarantee Fund is a protection program for members and beneficiaries of privately sponsored single employer defined benefit pension plans in the event of plan sponsor insolvency. Participation in the PBGF fund is mandatory unless exempt under Regulation 909 of the Pension Benefit Act (PBA).

Section 47(1) of Regulation 909 to the Pension Benefit Act (PBA) lists closed plans sponsored by various municipalities including the Hamilton Wentworth Retirement Plan

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**SUBJECT: Hamilton Street Railway (HSR) Pension Plan - Pension Benefit
Guarantee Fund (PBGF) Exemption (FCS18075) - Page 3 of 4**

(HWRF) and the Hamilton Municipal Retirement Fund (HMRF). Presumably they have been given exempt status since there is no or little risk that a public-sector employer will become insolvent.

Prior to the 2009 court case the employer and sponsor of the HSR pension plan was the HSR. The 2009 court case determined that the City of Hamilton was the actual employer and sponsor. Consequently, the City, seeking to make the Hamilton Street Railway plan exempt under this Regulation, began making inquiries in early 2010 to both the Financial Services Commission of Ontario (FSCO) and the Ministry of Finance on the process required to become an exempt plan. No response was received from our various attempts.

In 2013, the HSR plan text was revised and restated to incorporate the changes reflected in the 2009 court case, including the naming of the City as the plan sponsor rather than the HSR, which would further support our claim for a PBGF exemption. As a result, in December 2013 a recommendation from AF&A Report 13-011 (Item 8.10) was approved at the December 11, 2013 Council Meeting, directing the Mayor and City Treasurer to request that the Minister of Finance exempt the HSR.

A response to our letter was received in March 2014 requesting further information which we promptly provided in April 2014. There was no further communication from the Ministry and by September 2014 the City followed up to the inquiry only to find that the Ministry representative assigned to the case had retired and our request had been lost.

Over the course of the next 15-month period the Ministry did keep us apprised of the status of our request and by December 2015, almost 6 years after our original inquiry, we received a notification that the amended regulation was approved on a go forward basis, meaning that we would be responsible for fees required up to 2015.

During this same 15-month period, the City made various requests to FSCO to defer the outstanding PBGF fees pending the Ministry's decision, none of which were acknowledged, other than their continued delinquent payment notifications.

In 2016, the City with the assistance of the plan's actuary made another attempt to exempt the plan for the retroactive period 2009-2015, but to no avail. Finally, in 2017 we engaged McCarthy Tetrault LLP on a contingency basis to seek a retroactive refund of \$538,244 for the period 2009-2012 and a discharge from the outstanding payments for 2013-2015.

In late May 2018, FSCO contacted our legal counsel and advised that they would not assess fees for 2015 citing that upon further review the legislation applied to 2015 and therefore would exempt the City for the 2015 fees. The retroactive period of 2009-2014 was still denied.

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**SUBJECT: Hamilton Street Railway (HSR) Pension Plan - Pension Benefit
Guarantee Fund (PBGF) Exemption (FCS18075) - Page 4 of 4**

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

None

RELEVANT CONSULTATION

McCarthy Tetrault LLP was consulted on the feasibility of pursuing retroactivity.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

None

ALTERNATIVES FOR CONSIDERATION

None.

ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN

Community Engagement & Participation

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Our People and Performance

Hamiltonians have a high level of trust and confidence in their City government.

APPENDICES AND SCHEDULES ATTACHED

None

BH/dw



INFORMATION REPORT

TO:	Chair and Members Audit, Finance and Administration Committee
COMMITTEE DATE:	August 15, 2018
SUBJECT/REPORT NO:	Freedom of Information Quarterly Report (April 1 to June 30) (CL18003(a)) (City Wide)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Lisa Barroso, Manager, Records / Freedom of Information 905 546-2424 x2743
SUBMITTED BY:	Janet Pilon Acting City Clerk Corporate Services
SIGNATURE:	

Council Direction:

As directed by Council in 2004, quarterly reports on Freedom of Information activity are presented to the Audit, Finance & Administration Committee. The intent of these reports is to keep the Committee and Council informed of the types and numbers of requests received and processed under the *Municipal Freedom of Information and Protection Act*.

Information:

Listed on Appendix "A", attached to Report CL18003(a), are details of the Freedom of Information requests received during the second quarter of 2018 from April 1 to June 30. These details include the length of time it took to process each request, the status or disposition of the request, the type of request, and the originator of the request, based on the categories set by the Information & Privacy Commissioner. We also include the total of time spent by each city department on Freedom of Information requests.

Should Committee and Council wish to address a specific access request identified in this report, the matter would have to be dealt with, in closed session, in accordance with the *Municipal Act* and the City's Procedural By-law.

OUR Vision: To be the best place to raise a child and age successfully.

OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.

OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.

**Access Requests Received Under the Municipal Freedom of Information and Protection of Privacy Act
for April 1, 2018 to June 30, 2018**

File #	Request Type	Requester Type	General Description	Information Requested From	Date Received	Date Completed	No. of Days to Finish	Disposition of Request	Clerk Time (Min.)	City Manager	Human Resources	Legal Services	Healthy & Safe Communities	Emergency Services	Corporate Services	Procurement	Mayors Office	Councillors	Planning Economic Development	Public Health	Public Works	
18-004	G	IP	water	Public Health Services	Jan 19/18			in progress														
18-005	G	IP	water	Public Health Services	Jan19/18	May 14/18	61	partial disclosure (abandoned)	641	0	0	0	0	0	3	0	0	0	0	48	0	
18-009	G	IP	financial	City Manager's Office	Jan 25/18	Apr. 16/18	30	partial disclosure	781	154	0	0	0	0	6	0	0	0	0	0	0	0
18-010	G	IP	financial	City Manager's Office	Jan 25/18	Apr. 4/18	30	all disclosed	488	25	0	0	0	0	6	0	0	0	0	0	0	0
18-015	G	IP	financial	Corporate Services	Feb 5/18	Mar. 28/18	23	all disclosed	1099	0	0	0	0	0	783	0	0	0	0	0	0	0
18-016	G	IP	communications	Mayor Fred Eisenberger	Feb 5/18	Apr. 27/18	38	partial disclosure	408	0	0	0	0	0	3	0	81	0	0	0	0	0
18-017	G	IP	property	Public Health Services	Feb 6/18	Apr. 23/18	72	all disclosed	196	0	0	0	0	0	3	0	0	0	0	11	0	
18-019	G	B	property	Safe & Healthy Communities	Feb 9/18			in progress														
18-022	G	IP	property	Planning & Economic Development; Councillor Collins	Feb 13/18	Apr. 30/18	76	partial disclosure	572	0	0	0	0	0	3	0	0	39	15	0	0	
18-030	G	IP	infrastructure	Planning & Economic Development, Emergency & Community Services	Feb 20/18	Apr. 23/18	30	partial disclosure (under appeal)	819	0	0	0	0	8	6	0	0	0	80	0	60	
18-032	G	M	transit	Public Works	Feb 23/18	Jun. 27/18	90+	all disclosed	559	0	0	0	0	0	18	0	0	0	0	0	0	180
18-033	G	M	transit	Public Works	Feb 23/18	Jun. 27/18	90+	all disclosed	172	0	0	0	0	0	0	0	0	0	0	0	0	39
18-034	G	M	transit	Public Works	Feb 23/18	Jun. 27/18	90+	no disclosure	130	0	0	0	0	0	0	0	0	0	0	0	0	180
18-035	G	M	transit	Public Works	Feb 23/18	Jun. 27/18	90+	all disclosed	115	0	0	0	0	0	0	0	0	0	0	0	0	180
18-036	G	IP	election	Corporate Services	Feb 26/18	Mar. 28/18	30	partial disclosure	294	0	0	0	0	0	8	0	0	0	0	0	0	0
18-038	G	IP	video	Public Works	Mar 1/18	May 28/18	27	abandoned	324	0	0	0	0	0	3	0	0	0	0	0	0	120
18-039	G	B	compensation	Corporate Services	Mar 6/18	Apr. 12/18	30	all disclosed	172	0	30	0	0	0	3	0	0	0	0	0	0	0

Legend:

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File #	Request Type	Requester Type	General Description	Information Requested From	Date Received	Date Completed	No. of Days to Finish	Disposition of Request	Clerk Time (Min.)	City Manager	Human Resources	Legal Services	Healthy & Safe Communities	Emergency Services	Corporate Services	Procurement	Mayor's Office	Councillors	Planning Economic Development	Public Health	Public Works
18-040	G	IP	recordings	Planning & Economic Development	Mar 6/18	Apr. 5/18	30	abandoned	331	0	0	0	0	0	3	0	0	0	5	0	0
18-041	G	IP	property	Planning & Economic Development	Mar 7/18	Apr. 6/18	30	partial disclosure	236	0	0	0	0	0	8	0	0	0	60	0	0
18-042	G	IP	suspended	Public Works	Mar 7/18			in progress													
18-047	G	IP	property	Public Health Services	March 12/18	Apr. 11/18	30	partial disclosure (abandoned)	280	0	0	0	6	0	3	0	0	0	0	6	0
18-049	G	IP	property	Planning & Economic Development	March 16/18	Apr. 16/18	30	no responsive records	97	0	0	0	0	0	5	0	0	0	37	0	0
18-050	G	IP	maintenance	Public Works	March 16/18			in progress													
18-051	G	IP	property	Planning & Economic Development	March 16/18	Apr. 20/18	30	partial disclosure	220	0	0	0	0	0	3	0	0	0	55	0	0
18-052	G	IP	animal	Planning & Economic Development	March 23/18			in progress													
18-053	G	IP	property	Planning & Economic Development	March 26/18			in progress													
18-054	G	IP	property	Safe & Health Communities	March 27/18			in progress													
18-055	G	IP	property	Planning & Economic Development	March 28/18			in progress													
18-056	G	IP	property	Planning & Economic Development	March 28/18			in progress													
18-057	G	B	Negotiations	Corporate Services	April 3/18	May 3/18	30	no responsive records	158	0	0	0	0	0	18	0	0	0	0	0	0
18-058	G	IP	property	Healthy & Safe Communities - Public Health Services	April 5/18	May 7/18	30	all disclosed	281	0	0	0	0	0	9	0	0	0	0	15	0
18-059	G	IP	property	Office of the City Manager	April 5/18	May 7/18	30	all disclosed	157	30	0	0	0	0	0	0	0	0	0	0	0
18-060	G	IP	property	Councillor's Office	April 5/18	May 7/18	30	abandoned	87	0	0	0	0	0	0	0	0	120	0	0	0
18-061	G	B	property	Healthy & Safe Communities	April 5/18	May 4/18	29	partial disclosure	216	0	0	0	0	25	6	0	0	0	0	0	0
18-062	G	B	property	Planning & Economic Development	April 6/18	May 7/18	30	available directly through City department(s)	441	0	0	0	0	0	3	0	0	0	23	0	0
18-063	G	B	recording	Another Institution	April 6/18	April 9/18	3	forwarded to another Institution	61	0	0	0	0	3	0	0	0	0	0	0	0

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File #	Request Type	Requester Type	General Description	Information Requested From	Date Received	Date Completed	No. of Days to Finish	Disposition of Request	Clerk Time (Min.)	City Manager	Human Resources	Legal Services	Healthy & Safe Communities	Emergency Services	Corporate Services	Procurement	Mayors Office	Councillors	Planning Economic Development	Public Health	Public Works	
18-064	G	B	plans, reports, drawings	Public Works	April 5/18	May 4/18	29	abandoned	124	0	0	0	0	0	3	0	0	0	0	0	0	14
18-065	G	IP	property	Planning & Economic Development	April 9/18	April 17/18	8	no responsive records	95	0	0	0	0	0	3	0	0	0	8	0	0	0
18-066	G	IP	property	Planning & Economic Development	April 9/18	May 9/18	30	no responsive records	83	0	0	0	0	0	3	0	0	0	5	0	0	0
18-067	G	IP	property	Planning & Economic Development	April 9/18	April 17/18	8	no responsive records	100	0	0	0	0	0	0	0	0	0	10	0	0	0
18-068	G	IP	property	Planning & Economic Development	April 9/18	May 9/18	30	partial disclosure (abandoned)	150	0	0	0	0	0	3	0	0	0	60	0	0	0
18-069	G	B	property	Planning & Economic Development	April 11/18	May 7/18	26	all disclosed	167	0	0	0	0	0	3	0	0	0	13	0	0	0
18-070	G	B	property	Planning & Economic Development	April 11/18	Apr 18/18	7	withdrawn	72	0	0	0	0	0	3	0	0	0	117	0	0	0
18-071	G	IA	property	Planning & Economic Development	April 12/18	May 14/18	30	partial disclosure	282	0	0	0	2	0	6	0	0	0	38	0	0	0
18-072	G	B	property	Healthy and Safe Communities - Public Health Services	April 19/18	May 22/18	30	partial disclosure	385	0	0	0	0	0	6	0	0	0	0	15	0	0
18-073	G	B	animal	Planning & Economic Development	April 18/18	May 18/18	30	abandoned	82	0	0	0	0	0	3	0	0	0	10	0	0	0
18-074	G	IP	property	Planning & Economic Development	April 19/18	May 22/18	30	abandoned	88	0	0	0	0	0	3	0	0	0	120	0	0	0
18-075	G	B	property	Planning & Economic Development	April 20/18			in progress														
18-076	G	IP	property	Public Works, Councillor Office	April 25/18			in progress														
18-077	G	B	infrastructure	Public Works	April 27/18	May 28/18	30	partial disclosure	185	0	0	0	0	0	8	0	0	0	0	0	0	68
18-078	G	IA	all disclosed	Healthy & Safe Communities - Public Health Services	April 27/18	May 28/18	30	all disclosed	317	0	0	0	0	0	6	0	0	0	30	17	0	0
18-079	G	IP	property	Planning & Economic Development	April 30/18	May 10/18	10	no responsive records	85	0	0	0	0	0	5	0	0	0	5	0	0	0
18-080	G	B	property	Planning & Economic Development	April 30/18	Jun. 4/18	30	partial disclosure	195	0	0	0	0	0	3	0	0	0	25	0	0	0
18-081	G	B	property	Planning & Economic Development	May 10/18	June 13/18	30	all disclosed	180	0	0	0	0	0	6	0	0	0	43	0	0	0

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18-082	G	B	infrastructure	Planning & Economic Development	May 15/18			in progress														
18-083	G	IP	property	Public Works	May 24/18	June 25/18	30	partial disclosure	273	0	0	0	0	0	6	0	0	0	30	0	0	
18-084	G	IP	property	Public Works	May 18/18	June 27/18	40	partial disclosure	337	0	0	0	0	0	6	0	0	0	0	0	0	10
18-085		IP	employment	GMO	May 29/18	June 5/18	7	no record disclosed	157	41	0	0	0	0	3	0	0	0	0	0	0	0
18-086	G	M	employment	Healthy and Safe Communities	May 30/18	June 29/18	30	no record disclosed	891	0	0	0	106	0	3	0	0	0	0	0	0	0
18-087	G	M	employment	Healthy and Safe Communities	May 30/18	June 29/18	30	no record disclosed	70	0	0	0	0	0	3	0	0	0	0	0	0	0
18-088	G	?	video	Public Works	May 30/18			in progress														
18-089	G	IP	animal	Planning & Economic Development	June 4/18			in progress														
18-090	G	IP	property	Healthy and Safe Communities - Fire	June 4/18			in progress														
18-091	G	IP	property	Healthy and Safe Communities - Fire	June 4/18			in progress														
18-092	G	IP	property	Healthy and Safe Communities - Fire	June 4/18			in progress														
18-093	G	IP	property	Healthy and Safe Communities - Fire	June 4/18			in progress														
18-094	G	IA	property	Health and Safe Communities - Public Health Services; Planning & Economic Development	June 6/18			in progress														
18-095	G	IP	property	Planning & Economic Development	June 6/18			in progress														
18-096	G	IP	property	Planning & Economic Development	June 6/18			in progress														
18-097	G	M	contracts	Corporate Services	Jun-07			in progress														
18-098	G	IP	property	Corporate Services	June 7/18			in progress														
18-099	G	IA	property	Planning & Economic Development	June 13/18			in progress														

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18-100	G	M	property	Planning & Economic Development; Safe & Healthy Communities	June 13/18			in progress														
18-101	G	IP	animal	Planning & Economic Development	June 13/18			in progress														
18-102	G	IP	property	Planning & Economic Development	19-Jun-18			in progress														
18-103	G	IP	property	Safe & Healthy Communities	June 20/18			in progress														
18-104	G	IP	property	Healthy & Safe Communities	June 20/18			in progress														
18-105	G	IP	property	Healthy & Safe Communities	June 20/18			in progress														
18-106	G	IP	video	Public Works	June 21/18			in progress														
18-107	G	IP	property	Planning & Economic Development, Safe & Health Communities	June 21/18			in progress														
18-108	G	IP	property	Planning & Economic Development	June 21/18			in progress														
18-109	G	IP	property	Planning & Economic Development	June 26/18			in progress														
18-110	G	IP	property	Planning & Economic Development, Healthy & Safe Communities	June 27/18			in progress														
18-111	G	IA	animal	Planning & Economic Development	June 28/18			in progress														
17-005	G	IP	animal	Planning & Economic Development	Jan 11/17			in progress														
17-008	G	IA	roads	Public Works	Jan 20/17			in progress														
17-021	G	B	parks	Public Works	Feb 8/17			in progress														
17-064	G	IP	property, alley	Planning & Economic Development, Public Works, City Manager Office, Office of Councillor Vanderbeek	April 12/17			in progress														
17-066	G	IP	infrastructure	Public Works, Public Health Services, City Manager Office, Office of Councillor Vanderbeek	April 12/17			in progress														

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17-067	G	IP	infrastructure	Planning & Economic Development, Public Works, City Manager Office, Office of Councillor Vanderbeek	April 12/17			in progress														
17-068	G	IP	infrastructure	Public Works	April 12/17			in progress														
17-069	G	IP	procurement	Pulic Works	April 12/17			in progress														
17-070	G	IP	procurement	Public Works	April 12/17			in progress														
17-073	G	IA	infrastructure	Public Works	April 11/17			in progress														
17-075	G	IP	correspondence	City Manager's Officer	April 26/17	May 26/17	30	no records disclosed (under appeal)	2073	0	0	0	0	0	13	0	0	0	0	0	0	0
17-076	G	IP	correspondence	City Manager's Officer	April 26/17	May 26/17	30	no records disclosed (under appeal)	221	0	0	0	0	0	15	0	0	0	0	0	0	0
17-083	G	IP	correspondence	Planning & Economic Development	May 8/17			in progress														
17-087	G	AG	financial	Corporate Services	May 12/17			in progress														
17-088	G	AG	financial	Corporate Services	May 12/17			in progress														
17-089	G	AG	financial	Corporate Services	May 12/17			in progress														
17-092	G	B	infrastructure	Planning & Economic Development	May 15/17			in progress														
17-098	G	IP	municipal	Corporate Services	June 6/17	Jul 6/17	30	severed record disclosed per IPC mediation	578	0	0	0	0	0	8	0	0	0	0	0	0	0
17-104	G	IA	animal	Planning & Economic Development	June 15/17			in progress														
17-105	G	B	property	Planning & Economic Development	June 16/17			in progress														
17-113	G	IP	infrastructure	Public Works	July 18/17			in progress														
17-114	G	IP	traffic	Public Works	July 25/17			in progress														
17-115	G	IP	infrastructure	Public Works	July 25/17			in progress														

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17-116	G	IP	property	Planning & Economic Development	July 27/17	Aug 15/17	19	no responsive records (under appeal)	299	0	0	0	0	0	0	0	0	0	10	0	0
17-121	G	M	Financial	Corporate Services	Aug 4/17			in progress													
17-122	G	IP	enforcement	Office Councillor Whitehead, Public Works	Aug 4/17	Oct. 3/17	56	partial disclosure (under appeal)	930	0	0	0	0	0	17	0	0	4	3	0	0
17-124	G	IP	property	Planning & Economic Development	Aug 10/17	Nov. 2/17	84	partial disclosure (under appeal)	1080	0	0	0	0	0	0	0	0	0	16	0	0
17-125	G	IP	property & enforcement	Planning & Economic Development	Aug 11/17	Oct. 16/17	66	all disclosed (under appeal)	1366	0	0	0	0	0	3	0	0	0	15	0	0
17-126	G	IP	financial	Community & Emergency Services	Aug 14/17			in progress													
17-133	G	IP	property	Community & Emergency Services, Planning & Economic Development	Aug 28/17			in progress													
17-134	G	IA	property	Planning & Economic Development	Aug 28/17			in progress													
17-136	G	IP	animal	Planning & Economic Development	Aug 31/17			in progress													
17-138	G	B	financial	Public Works	Aug 28/17			in progress													
17-142	G	B	property	Planning & Economic Development, Public Works, Corporate Services	Sept 12/17			in progress													
17-146	G	IP	property	Public Health Services, Planning & Economic Development	Sept 13/17			in progress													
17-151	G	IP	property	Public Health Services	Sept 18/17			in progress													
17-152	G	B	property	Public Works	Sept 18/17			in progress													
17-153	G	B	property	Public Health Services	Sept 19/17			in progress													
17-157	G	B	property	Planning & Economic Development	Sept 25/17			in progress													
17-158	G	B	infrastructure	Public Works	Sept 25/17	Mar. 22/18	90+		791						8						27

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17-161	G	IA	property	Community and Emergency Services, Planning & Economic Development	Sept 27/17			in progress														
17-162	G	B		Planning & Economic Development	Sept 28/17			in progress														
17-163	G	IP	financial	Corporate Services, Public Works	Sept 28/17			in progress														
17-170	G	IA	infrastructure	Public Works	Oct 5/17			in progress														
17-171	G	IP		Office Councillor Whitehead, Public Works; Planning & Economic Development	Oct 19/17	Jan. 30/18	90+	no records disclosed (under appeal)	733	0	0	0	0	0	0	0	0	0	15	0	0	
17-176	G	IP	property	Planning & Economic Development	Oct 25/17	Feb. 12/18	30	abandoned	497	0	0	0	0	0	3	0	0	0	25	0	0	
17-177	G	IA	traffic	Public Works	Oct 27/17			in progress														
17-181	G	IP	property	Community & Emergency Services, Planning & Economic Development	Nov 6/17			in progress														
17-182	G	IP	property	Community & Emergency Services, Planning & Economic Development	Nov 6/17			in progress														
17-185	G	IP	property	Planning & Economic Development	Nov 7/17			in progress														
17-187	G	IP	property	Planning & Economic Development	Nov 9/17			in progress														
17-191	G	IP	licensing	Planning & Economic Development	Nov 15/17	Dec 18/17	30	no disclosure (under appeal)	36	0	0	0	0	0	0	0	0	0	0	0	0	0
17-192	G	IP	licensing	Planning & Economic Development	Nov 15/17	Dec 18/17	30	no disclosure (under appeal)	30	0	0	0	0	0	0	0	0	0	0	0	0	0
17-193	G	IP	licensing	Planning & Economic Development	Nov 15/17	Dec 18/17	30	no disclosure (under appeal)	30	0	0	0	0	0	0	0	0	0	0	0	0	0
17-194	G	IP	licensing	Planning & Economic Development	Nov 15/17	Dec 18/17	30	no disclosure (under appeal)	30	0	0	0	0	0	0	0	0	0	0	0	0	0
17-199	G	IP	property	Planning & Economic Development	Nov 16/17	May. 15/18	90+	abandoned	187	0	0	0	0	0	3	0	0	0	30	0	0	
17-200	G	IP	property	Planning & Economic Development	Nov 16/17	May. 15/18	90+	partial disclosure	114	0	0	0	0	0	0	0	0	0	5	0	0	
17-206	G	IP	infrastructure	Public Works	Nov 24/17	Jun 19/18	90+	all disclosed	290	0	0	0	0	0	0	0	0	0	0	0	0	

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17-208	G	IP	property	Planning & Economic Development	Nov 29/17	Jun 1/18	90	partial disclosure	482	0	0	0	0	0	6	0	0	0	101	0	0
17-211	G	IP		Public Works; Planning and Economic Development	Dec 6/17	May 28/18	90	partial disclosure	2220	0	0	0	0	0	6	0	0	0	0	0	180
17-212	G	B		Public Works	Dec 1/17			in progress													
17-216	G	IP	property	Public Health Services, Planning & Economic Development	Dec 11/17			in progress													
17-218	G	IP	video	Public Works	Dec 19/17			in progress													
17-219	G	IP	property	Planning & Economic Development	Dec 21/17	Feb 15/18	46	partial disclosure	216	0	0	0	0	0	18	0	0	0	25	0	0
17-220	G	IP		Public Health Services	Dec 22/17			in progress													
16-015	G	IA	property	Planning & Economic Development	Jan 18/16			in progress													
16-019	G	B	purchasing	Corporate Services	Jan 25/16			in progress													
16-020	G	B	property	Planning & Economic Development	Jan 28/16			in progress													
16-063	G	IP	property	Planning & Economic Development	Mar 14/16			in progress													
16-082	G	B	agreement	City Manager's Office	Apr 27/16			in progress													
16-090	G	B	enforcement	Public Health Services	May 5/16			in progress													
16-096	G	IP	property	Planning & Economic Development, Public Works	May 19/16	June 16/16	28	partial disclosure (under appeal)	0	0	0	0	0	0	0	0	0	0	0	0	0
16-100	G	IP	property	Community & Emergency Services (Fire), Planning & Economic Development, Public Health Services	May 26/16	Aug. 19/16	30	under appeal	0	0	0	0	0	0	0	0	0	0	0	0	0
16-122	G	B	infrastructure	Planning & Economic Development	July 6/16			in progress													
16-124	G	B	property	Planning & Economic Development, Community & Emergency Services, Public Works, Office of the City Clerk (Records)	July 8/16			in progress													

Legend:

IP - Individual/Public

B - Business

AR - Academic/Researcher

IA - Individual by Agent

M - Media

AG - Association/Group

File #	Request Type	Requester Type	General Description	Information Requested From	Date Received	Date Completed	No. of Days to Finish	Disposition of Request	Clerk Time (Min.)	City Manager	Human Resources	Legal Services	Healthy & Safe Communities	Emergency Services	Corporate Services	Procurement	Mayors Office	Councillors	Planning Economic Development	Public Health	Public Works
16-145	G	IP	hr	Corporate Services	Aug. 16/16	Dec. 2/16	44	no records disclosed (under appeal)	594	0	0	60	0	0	40	0	0	0	0	0	0
16-183	G	IP	stats	Community & Emergency Services	Oct 5/16			in progress													
16-196	G	B	procurement	Corporate Services	Nov 1/16			in progress													
16-202	G	IP	property	Planning & Economic Development, Community & Emergency Services	Nov 17/16			in progress													
16-207	G	B	property	Community and Emergency Services	Nov 24/16			in progress													
15-104	G	B	environment	Public Works	Jun 29/15			in progress	565	0	0	0	0	0	3	0	0	0	0	0	419
15-176	G	B	property	Planning & Economic Development	Oct 19/15			in progress	369	0	0	0	0	0	3	0	0	0	1168	0	0

Legend:

IP - Individual/Public

B - Business

AR - Academic/Researcher

IA - Individual by Agent

M - Media

AG - Association/Group



CITY OF HAMILTON
CORPORATE SERVICES DEPARTMENT
Financial, Planning, Administration and Policy Division

TO:	Chair and Members Audit, Finance and Administration Committee
COMMITTEE DATE:	August 15, 2018
SUBJECT/REPORT NO:	City of Hamilton Development Charges By-law 14-153 - Amendments to the Downtown Community Improvement Project Area (CIPA) Exemption (FCS18054(a)) (City Wide)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Lindsay Gillies (905) 546-2424 Ext. 2790
SUBMITTED BY:	Mike Zegarac General Manager Finance and Corporate Services
SIGNATURE:	

RECOMMENDATIONS

- (a) That no further Public Meeting is required with respect to the By-law attached hereto as Appendix "A" to Report FCS18054(a);
- (b) That the By-law, attached hereto as Appendix "A" to Report FCS18054(a), prepared in a form satisfactory to the City Solicitor, be passed and enacted.

EXECUTIVE SUMMARY

On June 13, 2018, Council received and made public, Report PED18093 / FCS18054 which served as a Background Study under the the *Development Charges Act, 1997, as amended*, (DC Act) through the approval of Item 6.7 of Audit, Finance and Administration Committee Report 18-008.

Report PED18093 / FCS18054 proposed an amendment to the Downtown Hamilton Community Improvement Project Area (CIPA) Development Charge (DC) exemption contained within the City's DC By-law 14-153. The proposed amendment would limit the Downtown Hamilton CIPA DC exemption to the height limits as presented to and approved by Council on April 25, 2018 through the Downtown Secondary Plan and Zoning By-law.

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OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.

SUBJECT: City of Hamilton Development Charges By-law 14-153 - Amendments to the Downtown Community Improvement Project Area (CIPA) Exemption (FCS18054(a)) - Page 2 of 5

The DC Act requires that a background study be made public a minimum of 60 days before Council can enact the By-law. Report FCS18054(a) provides the direction to enact the By-law. The amendments to the current DC By-law, through the approval of Recommendation (b), will be effective August 20, 2018.

There are no changes from the draft By-law presented to Council in June compared to the draft By-law attached as Appendix "A" to Report FCS18054(a).

Alternatives for Consideration – See Page 4

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: The financial implications of the proposed change will result in fewer DC exemption dollars being provided in the Downtown CIPA and will be dependent on the amount of development in excess of the stated heights that occurs. The impact is not expected to be sizable in the short term. There will be no budget impact related to this change as the cost to the City of providing the Downtown CIPA exemption has increased due to increased development activity while the percentage of the exemption has decreased.

Staffing: None.

Legal: The proposed By-law has been reviewed by Legal Services. Once approved, the By-law is subject to a 40-day appeal period. Any appeals to the By-laws will require further involvement from Legal Services staff.

HISTORICAL BACKGROUND

DC By-law 14-153 came into effect on July 6, 2014. As per the DC Act, DC By-laws can be in effect for a maximum period of five years before a new background study and By-law are required to be enacted. However, municipalities may elect to enact a new By-law or amend their By-laws before the five-year period expires.

At the Council meeting of January 24, 2018, Council approved the following Motion:

“That staff be directed to report back on the feasibility of limiting Development Charge reductions, Parkland Dedication Fee reductions, or any Community Improvement Plan (CIP) incentives to the regulated height and density restrictions of the Council adopted Official Plan and / or Zoning By-law with full fees to be applied to all height and density that surpass the restrictions.”

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SUBJECT: City of Hamilton Development Charges By-law 14-153 - Amendments to the Downtown Community Improvement Project Area (CIPA) Exemption (FCS18054(a)) - Page 3 of 5

On April 25, 2018, Council approved the update to the Downtown Secondary Plan and Zoning By-law. The update provided a clear vision of Downtown Hamilton intended to guide all future development proposals. The Downtown Secondary Plan and Zoning By-law place height restrictions in the downtown. Density is not specifically limited and therefore, restrictions related to density are not feasible based on the approvals from the April 25, 2018 Council meeting.

Report PED18093 / FCS18054 was approved by Council at its June 13, 2018 meeting, as the Background Study for a DC By-law amendment to cap the Downtown Hamilton CIPA DC exemption at the heights as presented with the Downtown Secondary Plan and Zoning By-law.

This Report recommends enacting the same By-law that was presented as draft in the June 2018 Background Study.

It should be noted that Parkland Dedication rates were amended in a similar approach through report PED18105, which was subsequently approved by Council on May 23, 2018.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

The DC Act requires a background study prior to passing a DC By-law. The current DC By-law came into force on July 6, 2014. A new DC By-law will be required to come into force on or before July 6, 2019. The work to undertake a complete City-wide DC background study and by-law utilizing the Province's original 2031 growth forecasts and existing Infrastructure Master Plans has been initiated through Reports FCS17086 and FCS18034. There is no change or edit recommended to this process that would be impacted by a DC By-law amendment.

Report PED18093 / FCS18054 was approved by Council as the Background Study for a DC By-law amendment at its June 13, 2018 meeting. The background study is required to be public for a minimum of 60 days before Council may pass the amendment. There must also be at least one public meeting prior to passing the amendment. The August 15, 2018 Audit, Finance and Administration Committee meeting has been designated and publicly communicated as the public meeting date.

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SUBJECT: City of Hamilton Development Charges By-law 14-153 - Amendments to the Downtown Community Improvement Project Area (CIPA) Exemption (FCS18054(a)) - Page 4 of 5

**Table 1
Schedule of Dates for the DC By-law Amendment Process**

Background Study and proposed by-law amendment available to public	June 11, 2018
Public Meeting ad placed in newspaper(s)	July 19, 2018 – The Hamilton Community News July 20, 2018 – The Hamilton Spectator At least 20 days prior to the public meeting
Public Meeting	August 15, 2018
Council considers passage of by-law	AF&A – August 15, 2018 Council – August 17, 2018 No less than 60 days after the background study is made available to the public
Newspaper and written notice given of by-law passage	By 20 days after passage
Last day for by-law appeal	40 days after passage
City makes available pamphlet (where by-law not appealed)	By 60 days after passage

RELEVANT CONSULTATION

Legal Services Division, Corporate Services Department

ANALYSIS AND RATIONALE FOR RECOMMENDATION

The rationale for the amendment was detailed in Report PED18093 / FCS18054. As a high level summary, the rationale is to align incentives with and reinforce the City's vision as articulated in the Downtown Secondary Plan and to avoid conflicting policies with the introduction of Bonusing under Section 37 of the *Planning Act*.

This Report recommends enacting the changes through enactment of the By-law attached as Appendix "A" to Report FCS18054(a).

ALTERNATIVES FOR CONSIDERATION

Alternatively, Council could not take any action at this time. Under this alternative, staff would utilize the background information contained within PED18093 / FCS18054 with the 2019 DC Background Study and any resulting change to the DC CIPA policy would be determined at a later date.

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SUBJECT: City of Hamilton Development Charges By-law 14-153 - Amendments to the Downtown Community Improvement Project Area (CIPA) Exemption (FCS18054(a)) - Page 5 of 5

- Financial: The current DC CIPA exemption policies would be applied and DCs charged and collected according to those policies.
- Staffing: None.
- Legal: None.
- Pros: Developers would have additional time to adjust their budgets for development in excess of the current heights identified in Appendix “A” to Report FCS18054(a).
- Cons: The City would be responsible for providing exemptions for any development in excess of the City’s articulated vision in the Downtown Hamilton CIPA which effectively becomes a burden on the existing tax and rate payers.

ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN

Community Engagement & Participation

Hamilton has an open, transparent and accessible approach to City government that engages with and empowers all citizens to be involved in their community.

Economic Prosperity and Growth

Hamilton has a prosperous and diverse local economy where people have opportunities to grow and develop.

Built Environment and Infrastructure

Hamilton is supported by state of the art infrastructure, transportation options, buildings and public spaces that create a dynamic City.

Our People and Performance

Hamiltonians have a high level of trust and confidence in their City government.

APPENDICES AND SCHEDULES ATTACHED

Appendix A – By-law No. 18-XXX, Being a By-law to amend By-law 14-153 and By-law 11-174 - “City of Hamilton Development Charges By-law, 2014” and “City of Hamilton GO Transit Development Charge By-law, 2011”

LG/dt

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Authority:
City Wide
Bill No.

CITY OF HAMILTON
BY-LAW NO. 18-XXX

Being a By-law to amend By-law 14-153 and By-law 11-174
"City of Hamilton Development Charges By-law, 2014"
and
"City of Hamilton GO Transit Development Charges By-law, 2011"

WHEREAS section 19 of the *Development Charges Act, 1997*, S.O. 1997, c.27 (hereinafter referred to as the "Act") provides for amendments to be made to development charges by-laws;

WHEREAS the Council of the City of Hamilton has determined that certain amendments should be made to the City of Hamilton Development Charges By-law, 2014 (By-law 14-153);

WHEREAS the Council of the City of Hamilton has determined that certain amendments should be made to the City of Hamilton GO Transit Development Charges By-law, 2011 (By-law 11-174);

WHEREAS, in accordance with section 10 of the Act, at its meeting of June 13, 2018, the Council of the City of Hamilton approved a background study through Report PED18093 / FCS18054 dated June 11, 2018 entitled "City of Hamilton Development Charges By-law Background Study Re: Amendments to the Downtown Community Improvement Project Area (CIPA) Exemption."

WHEREAS, as required by section 10 of the Act, the said development charges background study has been completed and made public a minimum of 60 days prior to passing this development charges By-law amendment;

WHEREAS, as required by section 11 of the Act, this By-law amendment is being enacted within one year of the completion of the said development charges background study, titled "City of Hamilton Development Charges By-law Background Study Re: Amendments to the Downtown Community Improvement Project Area (CIPA) Exemption" prepared by staff, dated June 11, 2018;

WHEREAS the Council of the City of Hamilton has given notice and held a public meeting on August 15, 2018 in accordance with section 12 the Act regarding its proposals for this development charges By-law amendment;

WHEREAS the Council of the City of Hamilton, through its Audit, Finance and Administration Committee, has received written submissions and heard all persons who applied to be heard no matter whether in objection to, or in support of, the said By-law amendment;

Being a By-law to amend By-law 14-153 and By-law 11-174
 "City of Hamilton Development Charges By-law, 2014"
 and
 "City of Hamilton GO Transit Development Charges By-law, 2011"

(Page 2 of 7)

WHEREAS the Council of the City of Hamilton, at its meeting of August 17, 2018, has adopted and approved the said background study and the development charges policies recommended by the General Manager of the Finance and Corporate Services Department to be included in this By-law amendment and determined that no further public meetings are required under section 12 of the Act; and

WHEREAS the Council of the City of Hamilton, at its meeting of June 13, 2018, approved a Report PED18093 / FCS18054 dated June 11, 2018 entitled "City of Hamilton Development Charges By-law Background Study Re: Amendments to the Downtown Community Improvement Project Area (CIPA) Exemption."

NOW THEREFORE the Council of the City of Hamilton enacts as follows:

1. Section 2 of By-law 14-153 is hereby amended by adding the following:

Schedule "H": Height Restrictions for Downtown Hamilton CIPA Exemption

2. Section 22 of By-law 14-153 is hereby amended by replacing Section 22 with the following:

"Downtown Hamilton Community Project Area (CIPA) Exemption

22. Development within the boundaries of the Downtown Hamilton Community Improvement Project Area (CIPA) as shown on Schedule "D" attached to this By-law shall:

- (a) be exempted from the following percentages of the development charges otherwise payable, after all other credits and exemptions are considered, under the By-law for only the portion of the building that is within the height restrictions as shown in Schedule "H" attached to this By-law based on the later of the date on which development charges are payable or the date all applicable development charges were actually paid:

Date	Percentage of exemption (%)	Percentage of development charge payable (%)
July 6, 2014 to July 5, 2015	90	10
July 6, 2015 to July 5, 2016	85	15
July 6, 2016 to July 5, 2017	80	20
July 6, 2017 to July 5, 2018	75	25
July 6, 2018 to July 6, 2019	70	30

Schedule "H" attached to this By-law shall not be amended by any decision by the Local Planning Appeal Tribunal relating to the City's Zoning By-law Amendment 18-114; or by any amendments, including site specific or area specific, to the City's Zoning By-law 05-200 either through Local Planning Appeal Tribunal decisions or by Council.

Being a By-law to amend By-law 14-153 and By-law 11-174
 "City of Hamilton Development Charges By-law, 2014"
 and
 "City of Hamilton GO Transit Development Charges By-law, 2011"

(Page 3 of 7)

For clarity, any development in excess of the height restrictions as shown in Schedule "H" shall be subject to the full calculated development charge and only be reduced if there are any credits or exemptions remaining after applying any and all other credits or exemptions to the portion of the building that is within the height restrictions as shown in Schedule "H" attached to this By-law.

- (b) receive an additional dollar for dollar exemption on any remaining development charges payable based on the amount of voluntary contributions to a Downtown Public Art Reserve, except and provided that no exemption under this Section 22(b) may exceed ten percent (10%) of the development charges otherwise payable on the height that is within the height restrictions as shown in Schedule "H" attached to this By-law.
3. By-law 14-153 is hereby amended by adding thereto the Schedule "H" attached to this By-law.

4. Section 2 of By-law 11-174 is hereby amended by adding the following:

Schedule "C": Height Restrictions for Downtown Hamilton CIPA Exemption

5. Section 18 of By-law 11-174 is hereby amended by replacing Section 18 with the following:

"Downtown Hamilton Community Project Area (CIPA) Exemption

18. Development within the boundaries of the Downtown Hamilton Community Improvement Project Area (CIPA) as shown on Schedule "B" attached to this By-law shall:

- (a) be exempted from the following percentages of the development charges otherwise payable, after all other credits and exemptions are considered, under the By-law for only the portion of the building that is within the height restrictions as shown in Schedule "C" attached to this By-law based on the later of the date on which development charges are payable or the date all applicable development charges were actually paid:

Date	Percentage of exemption (%)	Percentage of development charge payable (%)
July 6, 2014 to July 5, 2015	90	10
July 6, 2015 to July 5, 2016	85	15
July 6, 2016 to July 5, 2017	80	20
July 6, 2017 to July 5, 2018	75	25
July 6, 2018 to July 6, 2019	70	30

Being a By-law to amend By-law 14-153 and By-law 11-174
"City of Hamilton Development Charges By-law, 2014"
and
"City of Hamilton GO Transit Development Charges By-law, 2011"

(Page 4 of 7)

Schedule "C" attached to this By-law shall not be amended by any decision by the Local Planning Appeal Tribunal relating to the City's Zoning By-law Amendment 18-114; or by any amendments, including site specific or area specific, to the City's Zoning By-law 05-200 either through Local Planning Appeal Tribunal decisions or by Council.

For clarity, any development in excess of the height restrictions as shown in Schedule "C" attached to this By-law shall be subject to the full calculated development charge and only be reduced if there are any credits or exemptions remaining after applying any and all other credits or exemptions to the portion of the building that is within the height restrictions as shown in Schedule "C" attached to this By-law.

- (b) receive an additional dollar for dollar exemption on any remaining development charges payable based on the amount of voluntary contributions to a Downtown Public Art Reserve, except and provided that no exemption under this Section 18(b) may exceed ten percent (10%) of the development charges otherwise payable on the height that is within the height restrictions as shown in Schedule "C" attached to this By-law.
6. By-law 11-174 is hereby amended by adding thereto the Schedule "C" attached to this By-law.
 7. The City Clerk is hereby authorized and directed to consolidate this and any other duly enacted amendments to By-law 14-153 into the main body of the said By-law, and to make any necessary and incidental changes to numbering and nomenclature thereof arising from the said consolidation.
 8. The City Clerk is hereby authorized and directed to consolidate this and any other duly enacted amendments to By-law 11-174 into the main body of the said By-law, and to make any necessary and incidental changes to numbering and nomenclature thereof arising from the said consolidation.
 9. This By-law shall come into force and take effect at 12.01 a.m. on August 20, 2018.

PASSED this _____.

Fred Eisenberger
Mayor

Rose Caterini
City Clerk

Being a By-law to amend By-law 14-153 and By-law 11-174
"City of Hamilton Development Charges By-law, 2014"
and
"City of Hamilton GO Transit Development Charges By-law, 2011"

(Page 5 of 7)

SCHEDULE H TO BY-LAW 14-153
Height Restrictions for Downtown Hamilton CIPA Exemption



Being a By-law to amend By-law 14-153 and By-law 11-174
"City of Hamilton Development Charges By-law, 2014"
and
"City of Hamilton GO Transit Development Charges By-law, 2011"

(Page 6 of 7)

SCHEDULE C TO BY-LAW 11-174
Height Restrictions for Downtown Hamilton CIPA Exemption



Being a By-law to amend By-law 14-153 and By-law 11-174
"City of Hamilton Development Charges By-law, 2014"
and
"City of Hamilton GO Transit Development Charges By-law, 2011"

(Page 7 of 7)

For Office Use Only, this doesn't appear in the by-law - Clerk's will use this information in the Authority Section of the by-law

Is this by-law derived from the approval of a Committee Report? Yes

Committee: Audit, Finance & Admin Report No.: FCS18054(a) Date: 08/15/2018

Ward(s) or City Wide: City Wide (MM/DD/YYYY)

Prepared by: Lindsay Gillies

Phone No: (905) 546-2424 Ext. 2790

For Office Use Only, this doesn't appear in the by-law





Complete Service Center
and other public works for LA and
San Diego County, California

NO. 10-1000
INVOICE NUMBER 10

DATE: 10/10/10
BY: [Signature]

TO: [Name]
ADDRESS: [Address]
CITY: [City] STATE: [State] ZIP: [ZIP]

Mark Components

Item	Description	Quantity	Unit	Rate	Total
1	Asphalt	100	sq. yd.	1.50	150.00
2	Gravel	50	cu. yd.	2.00	100.00
3	Concrete	20	cu. yd.	3.00	60.00
4	Rebar	10	lb.	0.50	5.00
5	Formwork	10	sq. ft.	0.20	2.00
6	Water	100	gal.	0.05	5.00
7	Labor	10	hr.	10.00	100.00
8	Equipment	10	hr.	5.00	50.00
9	Transportation	10	mi.	1.00	10.00
10	Permit	1	fee	100.00	100.00
11	Insurance	1	fee	50.00	50.00
12	Tax	1	fee	10.00	10.00
13	Subtotal				625.00
14	Tax				62.50
15	Total				687.50

Notes: This invoice is based on the estimate provided to you. All quantities are approximate and subject to change without notice. Payment is due within 30 days of the date of invoice. If you have any questions, please contact our office.

Customer's Name: [Name]
Address: [Address]
City: [City] State: [State] ZIP: [ZIP]

Payment: [Amount]
Check # [Number]

92 East 15th Street Hamilton Water Billing Dispute Delegation to Audit, Finance & Administration Committee

Summary

In April 2017, the current property owner purchased 92 East 15th Street, Hamilton and the water bill is in the owner/landlord's name with a Mississauga mailing address for the water account. Table 1 on page three provides the property's water and wastewater/storm billings under the current owner. The crux of the landlord's water billing issue lies with the "catch-up" bill received in January 2018 for a significant amount of unbilled water consumption following an actual water meter reading that was obtained when the property's remote water meter reading device was replaced in mid-December 2017. The remote reading device was not working resulting in water billings based on estimated usage for a four-month timeframe (September 2017 to December 2017). When unable to obtain a water meter reading, the meter reader leaves a meter read request door hanger for the customer to call in/return read card with an actual consumption read from their water meter. Invoices that are based on estimated consumption do indicate to the customer that the related consumption reading is based on an "Estimate."

The water meter registered 1,644 m³ of water consumed between August 17, 2017 to January 15, 2018, resulting in actual average daily consumption (ADC) of 10.9m³/day over this period of 151 days suggesting significant leakage was occurring. The level of high usage continued into the subsequent billing period ending February 15, 2018 with an ADC of 4.6m³/day signifying some adjustment/repair occurred that thereafter restored the property's water consumption to typical usage levels for this account. The landlord was contacted by the City's water billing agent Alectra Utilities Corporation (AUC) on January 23, 2018 of high water usage and apparently shortly thereafter, the landlord brought in a plumber who stated the property had no water leaking at that time. It is quite possible that during the plumber's water leak investigation that the leaking condition(s) were addressed as the metered consumption reflects thereafter. Plumbing issues can range from a flapper that "sticks" over time causing consumption to go and up down, to faucets/shower control valves that leak only when opened to a certain degree because the washer/cartridges require replacement. Sometimes a faulty flush valve in a toilet may cause a toilet to run intermittently.

City's Consecutive Estimates Policy

Estimated billings and customer contact for the subject account have been conducted in accordance with the City's Consecutive Estimates Policy. Unbilled consumption that results from obtaining an actual water meter reading remains the responsibility of the property owner.

The City's practices and authority with respect to estimated billing were confirmed earlier this year as the City and AUC were successful in defending at trial a Small Claims Court claim by a residential landlord which was brought against the City and AUC relating to estimated billing practices. This decision (*Radassao v. City of Hamilton et al.*) confirmed

the City's authority to use estimated billing where actual readings were not available, and that it is the property owner's responsibility to thoroughly read bills (which always indicate estimated or actual usage) and maintain the property accordingly.

Water Meter Accuracy Testing

At the request of the property owner, Hamilton Water attended the property in February 2018 and found no issues with the water meter. On May 16, 2018, the water meter was removed from service for a meter accuracy flow test that was performed by Neptune Technology Group at their Mississauga site. The property owner was present for the testing which confirmed the meter was performing within the manufacturer operating specifications. The unusual step of a further "odometer" test was conducted and this test confirmed no measurement accuracy issues. It should be noted that the meter removed for testing had been in service for approximately six months as it was installed in June 2017. Consequently, no bill adjustment has occurred. Note that Hamilton Water strictly as a goodwill gesture, waived the meter accuracy test fees which for both tests amounted to over \$500.

City's Water Bill Adjustment Policies

City Council has approved water bill adjustment policies (Water Leak Adjustment Policy and the Extraordinary Circumstance Policy) that provide staff authority to allow bill adjustments under specific circumstances, however, an "Income Producing Residential Rental Property" The term "income property" should not be confused to mean that rental income exceeds the property's operating costs (mortgage, property taxes, utilities, maintenance, etc). Many landlords do not "profit" from the rent exceeding costs but recoup operating cost recovery shortfalls when selling the property by means of the capital appreciation of the property over time.

The *Municipal Act, 2001* does include an "anti-bonusing" clause whereby a municipality shall not assist directly or indirectly any commercial enterprise through the granting of bonuses that includes giving a total or partial exemption from any levy, charge or fee. This consideration is why landlords are excluded from being eligible under the bill adjustment policies that any Ontario municipality may offer. This is also why Hamilton may provide an adjustment to registered non-profit housing (social housing) providers. The City's Legal Services have reviewed the existing water bill adjustment policies and continue to recommend that income producing properties be considered as commercial so that such policies be restricted to residential and non-profit customers to comply with the *Municipal Act*.

TABLE 1

Read Date	Meter Number	Total Bill (\$)	Usage (m3)	Read Estimated	Read From	Read To	Avg Daily (m3)	Billing Days
5/14/17	576801722	13.03	2	No	2,436	2,438	0.133	15
6/14/17	535318707	130.71	42	No	0	0	1.355	31
7/20/17	535318707	154.85	49	No	0	49	1.361	36
8/17/17	535318707	140.58	46	No	49	95	1.643	28
9/19/17	535318707	117.20	37	Yes	95	132	1.121	33
10/16/17	535318707	95.36	31	Yes	132	163	1.148	27
11/13/17	535318707	87.12	28	Yes	163	191	1.000	28
12/11/17	535318707	75.24	24	Yes	191	215	0.857	28
1/15/18	535318707	4,611.39	1,524	No	215	1,739	43.543	35
2/15/18	535318707	449.60	143	No	1,739	1,882	4.613	31
3/15/18	535318707	115.80	36	No	1,882	1,918	1.286	28
4/10/18	535318707	98.90	31	No	1,918	1,949	1.192	26
5/10/18	535318707	111.00	34	No	1,949	1,983	1.133	30
6/13/18	536917228	132.40	40	No	0	31	1.176	34

Alectra Utilities Customer Contact Timeline

9/19/17 – First estimated water bill issued as meter reading not obtained due to remote reading device (commonly referred to as a touchpad) not working. Meter reader leaves meter read request door hanger (bright yellow card requesting occupant to read water meter typically found in basement and submit the reading to AUC).

10/16/17 – Second estimated water bill with meter read request door hanger left at door.

11/2/17 – AUC issues touchpad repair work order to City to repair touchpad in accordance with the City's Estimates Policy.

11/6/17 – Owner calls AUC who advise of touchpad issue and direct owner to call Hamilton Water to have touchpad repaired.

11/13/17 – Third estimated bill. AUC issues access letter to owner and attempts to call owner as well but no answer or ability to leave message.

12/7/17 – Owner calls AUC that appointment with Neptune to repair touchpad scheduled for Dec 14th – this appointment occurs as scheduled where Neptune replaces wire from meter and the touchpad itself.

1/15/18 – AUC issues catch-up bill for unbilled consumption of 1,524m3 reflecting actual water meter reading of 1,739m3 on meter.

1/23/18 – AUC calls owner to advise of high water usage and to investigate for possible leakage.

2/6/18 – Owner calls AUC advising plumber has attended property and no leaking conditions at that time

From: anthony godlewski
To: [McRae, Angela](#)
Subject: Re: Request to Speak - Audit, Finance and Administration Committee
Date: August 13, 2018 7:40:25 PM

Hi Angela ,

Thanks again for letting me appear before the committee on August 15th , I am forwarding a brief outline of my presentation as you requested .

Again for everyone involved , I cannot stress enough my feeling that this is more an issue with installation of the meter , its reading pad , OR the software incorporated into reading the device .

On about July 2017 the Neptune water meter was replaced at My house at 92 East 15th St , immediately in around late August there was a spike in water billing . I contacted Alectra/ Horizon was told the reading was an actual reading and left it at that .

I found the bill high the following month and called again and was told by a girl at Alectra / Horizon it was an Actual reading , when in fact it was not ,,, the bills now show .

I received a notice I believe in late October, it was regarding the issue of Alectra / Horizon not being able to get a reading from the electronic pad and to arrange repair at which point I do recall asking repair ? Repair what ? Why am I repairing a new meter to which I believe she stated call the City to arrange repair . I called the city and the girl stated these are computer generated , you have a new meter I wouldn't worry too much , I'll forward this on .

On November 28th I received another notice from Alectra /Horizon asking me to contact the City because they could not get a reading from my outside electronic touch pad . I called the City and was told not to worry , "the computer spits out these notices automatically , and she would look into it " ... again

Shortly , perhaps a few days or a week later I received a call notifying me that a Neptune Technician would be at my property on December 14th to repair the faulty electronic reading pad . I arranged for my tenant to allow access and thought nothing of it . (I WISH TO GOD I KNEW WHAT I KNOW NOW BECAUSE I WOULD HAVE BEEN THERE WATCHING AND MONITURING EVERY MOMENT)

About the first week of January I received my water bill in the amount of \$4611.39

I called Alectra , the City and anyone I could , asking what was going on and was transferred to Cassandra Katilyn at City , who was very helpful and understanding and assured me this has to be a mistake of some sort and she would look into the matter and get back to me There must be some error or malfunction somewhere with the equipment or billing I was told .

In about the same time or just after this bill I receive ANOTHER Notice of not being able to read my meter or equipment dated December 28th !

This is where I start to think more than just meter readings are involved here perhaps computers , billing , softwear .

Throughout January I was interrogating my tenants and pleading with them to let me know if something at all was running on or overflowed , a lady and two daughters on the upper level and a man his wife and small child on the lower level All insisting nothing was out of the ordinary at all and that one of the daughters was away for the holidays on the upper level , the lower level stated they had been mostly at in laws throughout December . So if anything it should be lower than normal they insisted I checked the property up and down every faucet , drain , appliance several times throughout January and found nothing . I was especially interested in finding something around or under the property like an Air Canada Centre ice rinkI found absolutely nothing .

Cassandra Contacted me on February 6th to let me know Tom Stremble from City water would be at the property February 26th to inspect the meter . He checks everything over , looks quickly at basement taps and toilet and says everything looks good but " I would like to take in that whole elbow attachment along with the meter if my superiors let me " I said great and that I would like to know about meter readings on the bill specifically the Ratio / Multiplier , as mine is different from my neighbours , to which he states the different ratio`s are due to two different meters I also asked about why it took so long to get the reading pad repaired , which he couldn`t answer but said I should call Horizon , and ask about that AND more about the ratio`s . When asked where all this water might have disappeared , he stated "run on toilet " , Leaky faucet , or with tenants "Laundry and showers " and said " you have tenants no " ? I said swimming pools full of water to laundry and showers ? I left it there took his card and asked for him to call when they could take the meter and elbow for testing .

I would like to point out here that the gas bill from UNION GAS for the Shower and Laundry explanation/ scenerio for July \$72.01/ August \$64.63 / September \$58.73/ October was \$107 / November \$107 / December \$107 / January \$107 / Feb\$107 /March \$107 /April\$107 etc.etc. I don`t see how this much "Showers and Laundry " could not affect gas at all .

After trying to pin down Dale Badour Of City water , who went on and on and on about what a run on toilet or leaky faucet could do , and I should really talk to Tiffany Wilson of Horizon / Alectra Customer Service as to a payment

plan "because she was very easy to deal " ,(I'd like to insert here that I found it odd How they were on a first name basis and favorites email contact relationship which started to make me wonder how many times this has gone on ?) I was told we would have a conference call March 7th at 1:00 pm .

I was contacted as promised March 7th at 1:00 and noticed a very different mood in that Dale was adamant my tenants used my water and everything else was just not possible , When I stated Tom suggested taking out the meter WITH THE ELBOW attached if his superiors would allow , I was cut off at elbow with a " NO I DIDN'T ! " from the back ground and again "I DID NOT " Cassandra seemed to disappear as she was by far the most helpful to this point .

From that point on things just digressed between me Dale and Tiffany and kept going back to when do you want to test the meter or , what type of payment plan would you like . Meantime my water bills were still hitting the \$450 range monthly !

I about that time in late March or early April I contacted Monique Taylors office my MPP for East 15th and I explained to Jaci McGreal that I felt I was being rail roaded and bullied and that I felt like Hamilton water was in a conspiracy with Horizon especially Dale and Tiffany and I wasn't so sure if the guys reading the meters weren't involved ..

She began to make inquiries and a few weeks later I received an email from Tiffany Wilson Horizon that "Good news , your water bill seems to be back to normal , it came in at only 36 cubic litres ! " or something to that effect . Which I find strangely coincidental that a government representative is involved and things start to turn for the better .

Jaci got me in touch with Donna Skelly , Donna was amazing and helped me to have the meters tested by the city at the city cost which again I thank the city for very much , Tom Stremble removed the meter on May 16th (he installed the replacement backwards the first time and had to reinstall , which makes me wish I had been there December 14th when the Neptune tech was there even more)... I accompanied him to the testing facility , it passed , and Tom was then even good enough to suggest a second test , of more length and duration , which I indicated would probably pass also but I thank him for that !

Donna Skelly was amazing and suggested the committee of adjustment and that that would certainly help , she has of course moved up to Queens Park and has been very busy with the transition which is to be expected . She did however mention to me " If you were living in the house the City would have by now probably forgiven a good chunk of this bill as a one time show of good faith , but you are a landlord and it doesn't matter how much tax you paybut maybe they can help you because the bill is so outrageous "

This is where we are at today , I strongly feel this is an issue with meter installation for that time , an electrical error or softwear error in reading or getting info from the pad or something even worse at billing .

Please keep in mind your new billing system punishes me dramatically with highly inflated rates on the WATER STORM and WATER TREATMENT portions of my bill on water I dispute even entering the premises .

I have someone who buys water daily in large volume , he can ad some input into his cost of buying fresh water and also might be able to put into perspective what the city is suggesting was used in my 1500 Sq. Ft. bungalow through an out dated supply system which water pressure is very low on .

I would offer to pay one thousand dollars today over and above the high bills I paid all through the fall and winter , just to have closure to the issue .

Thank you again very much for letting me submit my problem here to you .

I have attached the notices I received re not being able to read the meter .

ANTHONY GODLEWSKI



GODLEWSKI. ANTHONY

2017-11-28

Dear Sir/Madam:

Re: Meter read(s) for Account
number(s)

92 EAST 15TH ST
HAMILTON, ON

Alectra Utilities wants to ensure that our customers receive accurate bills and as such, it is imperative that we obtain actual meter readings from your exterior water meter remote touchpad. We have been unable to obtain a meter reading and as arrangements to access your metering equipment to obtain an actual water reading have not been done future water estimates for the above property may now be invoiced at two cubic metres per day.

The City of Hamilton's Waterworks By-law requires all property owners with an existing water meter to allow access to water meter equipment for inspection or servicing. **Please arrange to have your water metering equipment attended to as soon as possible, by contacting the City at (905) 546-4426 by the next read date tentatively scheduled for 2017-12-08.**

You may also submit a meter reading 24/7 to our office by one of the following methods:

1. Email a digital picture of your water meter to info@horizonutilities.com
2. Call our office at 905-522-9200. Select Option #5-Self Serve Options, then Option #3-Report my meter read.
3. Online: <https://www.horizonutilities.com/myhome/self-serve/pages/update-meter-reads.aspx>

Please be advised that failure to arrange the meter repair or replacement within the next 30 calendar days may result in the City directing that the future water bills for the property may be invoiced at three cubic metres per day for the property, until such time as an arrangement has been made with the City to repair or replace the water meter. Note that if an overestimation of consumption results from changing the basis of estimating water usage, that it is solely at the City's discretion whether a billing adjustment will be authorized.

Your cooperation and immediate attention to this matter is appreciated.

Customer Service
Alectra Utilities Corporation

Alectra Utilities Corporation
PO Box 2249, STN LCD 1, Hamilton, ON L8N 3E4
Hamilton 905 522 9200 / St. Catharines 905 984 8961 / tf 1 866 458 1236

NATALIE

alectrautilities.com



GODLEWSKI. ANTHONY

2017-11-28

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Hamilton 905 522 9200 / St. Catharines 905 984 8961 / tf 1 866 458 1236

NATALIE

alectrautilities.com

I would like to submit this video for all concerned prior to my appearance before City Council on August 15th as it more or less describes my situation to a T .

My gas bills for a year and a half indicate no surge in hot water use as they have never gone above \$107.00 monthly but have dropped during evaluation periods , so " showering or laundry " as suggested by City staff doesn` t explain the disappearance of 5 or 6 Olympic sized pools , where a software problem as many legal and water experts have suggested to me , and was subsequently found to be the case in the courts in Atlanta is FAR more likely .

Please I ask you to take this into consideration

<https://www.youtube.com/watch?v=16gI4pCeQxw&feature=youtu.be>



Questions? See reverse for contact information.

Your Bill

Electricity Charges For Dec 11, 2017 To Jan 15, 2018

Electricity			
Off Peak Usage	1047.15kWh @ 0.0650000		\$68.06
Mid Peak Usage	236.68kWh @ 0.0950000		\$22.48
On Peak Usage	226.72kWh @ 0.1320000		\$29.93
<i>Electricity provided by Alectra Utilities as Standard Supply Service</i>			
Delivery			\$57.93
Regulatory Charges			\$6.36
Debt Retirement Charge			\$0.00

Total Electricity Charges \$184.76

H.S.T. #728604299 \$24.02
 8% Provincial Rebate \$14.78CR

Sub Total \$194.00

Water & Wastewater/Storm Charges For Dec 11, 2017 To Jan 15, 2018

Water Fixed Charge	14 days @ \$ 0.34		\$4.76
Water Fixed Charge	21 days @ \$ 0.33		\$6.93
Consumption Block 1 (0 - 10m3)	5.00 m3 @ \$ 0.75		\$3.75
Consumption Block 2 (> 10m3)	605.00 m3 @ \$ 1.49		\$901.45
Consumption Block 1 (0 - 10m3)	7.00 m3 @ \$ 0.72		\$5.04
Consumption Block 2 (> 10m3)	907.00 m3 @ \$ 1.43		\$1,297.01
Wastewater/Storm Fixed	14 days @ \$ 0.36		\$5.04
Wastewater/Storm Fixed	21 days @ \$ 0.34		\$7.14
Treatment Block 1 (0 - 10m3)	5.00 m3 @ \$ 0.81		\$4.05
Treatment Block 2 (> 10m3)	605.00 m3 @ \$ 1.61		\$974.05
Treatment Block 1 (0 - 10m3)	7.00 m3 @ \$ 0.77		\$5.39
Treatment Block 2 (> 10m3)	907.00 m3 @ \$ 1.54		\$1,396.78

Total Water & Wastewater/Storm Charges \$4,611.39
Prior Balance \$0.00

Total Amount You Owe - Due Feb 20, 2018 \$4,805.39

GODLEWSKI, ANTHONY

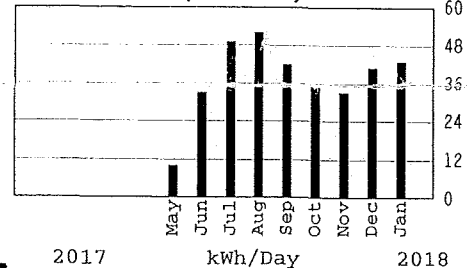
Account Number: [REDACTED]

Service Address:
 92 EAST 15TH ST
 HAMILTON ON

Date Your Bill Was Prepared:
 Jan 30, 2018

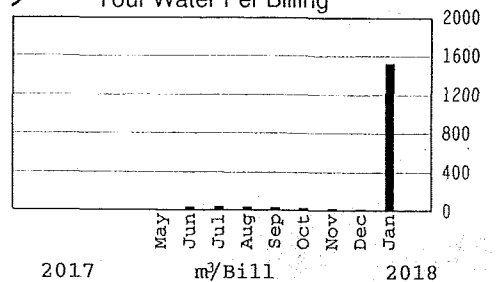
Thank You For Your Payment:
 \$228.35

Your Daily Electricity Billed



Historical Usage	This Year	Last Year
Electric-kWh/day	43.17	N/A
Water-m ³ /day	43.54	N/A

**MORE FOR WATER LEAVING
 THAN ACTUAL WATER**
 Your Water Per Billing



Ontario's Fair Hydro Plan substantially lowers electricity bills for typical residential consumers. This includes the eight per cent rebate introduced in January 2017, and builds on previous initiatives to deliver broad-based relief on all electricity bills.

Next Scheduled Reading Date is tentatively set for Feb 12, 2018

Please see reverse side for further information.
 Amount owing after the due date is subject to interest @ 19.56% per year.
 The debt retirement charge pays down the debt of the former Ontario Hydro.

alectrautilities.com
 Effective January 1st, rates have changed. Visit our website for updates.
PAYING YOUR BILL ELECTRONICALLY?
 Continue to pay Horizon Utilities.

Conservation Tip
 Reduce your energy consumption this holiday season by plugging your outdoor lights into a timer. Visit, <http://bit.ly/SOEtimer> to save \$4.

Your Usage For This Period

	Meter Number	Meter Type	Reading Is An	Number Of Days	Reading At Start Of Period	Reading At End Of Period	Multiplier	Measured Usage	Rate Class: Residential	
									Adjustment Factor	Adjusted Usage
Electric	327098	R1S	Actual	35	49991.57	51502.12	1.0	1510.55	1.0379	1567.80
Water	535318707	0016	Actual	35	215	1739	1.0	1524.00		

DEC 14

GODLEWSKI, ANTHONY

Due Date: Feb 20, 2018

Amount Paid \$ 194.00



CITY OF HAMILTON
CORPORATE SERVICES DEPARTMENT
Financial Services Division

HEALTHY AND SAFE COMMUNITIES DEPARTMENT
Public Health Services, Healthy Environments Division

TO:	Chair and Members Audit, Finance and Administration Committee
COMMITTEE DATE:	June 25, 2018
SUBJECT/REPORT NO:	Commercial Relationship Between the City of Hamilton and Ontario Inc. 2380585, c/o Wise and Hammer Inc. and Related Entities (FCS17085(a) / BOH17042(a)) (City Wide)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Tina Iacoe (905) 546-2424 Ext. 2796
SUBMITTED BY:	Rick Male Director, Financial Services, Taxation and Corporate Controller Finance and Corporate Services Department
SIGNATURES:	Kevin McDonald Director, Healthy Environments Division Healthy and Safe Communities Department

RECOMMENDATIONS:

- (a) That, due to the impairment of the commercial relationship between the City of Hamilton and Ontario Inc. 2380585, c/o Wise and Hammer Inc. or any of its related corporate or individual entities, staff be directed to reject any current and future bids, proposals or quotations received from Ontario Inc. 2380585, c/o Wise and Hammer Inc. or any of its related corporate or individual entities, until and including June 25, 2023.
- (b) That the City of Hamilton not enter into any contract with Ontario Inc. 2380585, c/o Wise and Hammer Inc., or any of its related corporate or individual entities, until and including June 25, 2023.

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SUBJECT: Commercial Relationship Between the City of Hamilton and Ontario Inc. 2380585, c/o Wise and Hammer Inc. and Related Entities (FCS170805(a)/ BOH17042(a)) (City Wide) - Page 2 of 7

EXECUTIVE SUMMARY

On November 9, 2017, the Procurement Sub-Committee met to discuss Report FCS17085/BOH17042, which recommended an interim ban be imposed upon Wise and Hammer for a period of up to 12 months. At that meeting, the Procurement Sub-Committee approved the Report and further directed staff to report back to the Audit, Finance and Administrative Committee before the end of the 12 month term in order to impose a ban for a longer period of time.

The purpose of this Report is to comply with the Procurement's Sub-Committee direct and recommend a ban against Ontario Inc. 2380585, c/o Wise and Hammer Inc. (Wise and Hammer), as well as any of its related corporate or individual entities, from competing or being awarded any City of Hamilton (City) Contract, due to documented poor performance and non-performance which has impaired the commercial relationship between the City and the vendor.

Alternatives for Consideration – See Page 6

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: Banning Wise and Hammer from the competitive bidding process would decrease the potential number of bidders for marketing and design related projects. However, it must be noted that all of the contracts in which Wise and Hammer have been awarded to date have been through direct award or through a non-competitive process.

Staffing: None

Legal: The City's right to ban a vendor from future bids or from entering into contracts with the City, where the commercial relationship between the City and vendor has been impaired due to the vendor's conduct, is set out in the Procurement Policy By-law No. 17-064.

HISTORICAL BACKGROUND

In July, 2016, Wise and Hammer were engaged by the Tobacco Control Program (TCP) Section of Hamilton Public Health Services to complete four graphic/web design projects, two of which were directly for use by the City of Hamilton's TCP Section and two were for use by other Ontario Provincial Tobacco Control network partners, paid for by the Kingston, Frontenac and Lennox and Addington Public Health ("KFL&A").

From July to October 2016, Public Health staff met with Wise and Hammer to finalize the scope for the four projects and to create estimates for the work involved in each of

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the projects. City staff was of the understanding that Wise and Hammer was to develop a template for the first project and then replicate it for the remaining three projects. As a result of these discussions, the scope of work was finalized and Wise and Hammer issued four invoices: two to City of Hamilton and two to KFL&A for payment. All invoices indicated that they were due 30 days upon issuance. Full payment of the two respective City invoices (#397 and #398) was made to the vendor on or around October 21, 2016, for the total amount of \$19,323.00.

The invoices included the following term and condition:

“Any items not outlined in this proposal shall be considered beyond the Scope of Work and will exceed the Estimated Fees. Out-of-scope items will require prior Client approval in the form of a Change Order (Change Request) before being added to the Scope of Work.”

In January 2017, Wise and Hammer advised City staff via email that additional hours had been spent on the projects and that they were *“now 4x the agreed upon original budget in the hours used and over a month past the deliverables to be completed originally discussed”*. Prior to this communication with City staff, Wise and Hammer failed to advise or request approval from City staff for additional hours or extra work to be completed on the projects, as set out in the term and condition of their invoices.

Through the email communication dated January 13, 2017, City staff became aware that all work to date had been expended towards the first templated project being the KFL&A project *“Freeze the Industry”*. No other work had been completed on any of the three remaining projects.

In an effort to gain an understanding of the additional hours worked on the projects, City staff made repeated attempts to discuss the hours and request further information from Wise and Hammer to distinguish work that was completed from work not completed. Although no request for approval of additional hours or extra work had formally been made by the vendor, City staff indicated to Wise and Hammer that staff were willing to re-quote/re-scope the work as needed based on learnings from 1st campaign template package and bill accordingly, however, the vendor was non-responsive to the request to meet or discuss.

In February 2017, Wise and Hammer provided staff with information regarding work completed to date and work in progress. They noted that all items related to the City's invoices #397 & #398 were listed as “not started”. Only work related to the KFL&A project *Freeze the Industry* had been completed. On March 3, 2017, staff was finally provided with a “Detail Time Report” generated by Wise and Hammer. Although the report included project details and the number of hours worked from August 4, 2016 to February

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17, 2017, the information that was provided was blended for all four projects without any separation of work completed by project.

After the receipt of the report, City staff requested a further breakdown of the information to delineate the projects. The vendor was again non-responsive to this request.

In April, 2017 City staff found it prudent to complete a Vendor Performance - Incident Reporting Form ("VP Form") and formally document the poor and non-responsiveness of the vendor. Wise and Hammer were given the opportunity to respond and as a result of that response, City staff requested a face-to-face meeting to discuss the VP Form and try to resolve the issue.

Representatives from Wise and Hammer along with City staff from the TCP Section and the Procurement Section met to discuss the vendor performance and non-performance issues and how best to proceed with the projects. It became apparent at that meeting that Wise and Hammer were not willing to complete the three remaining projects without further compensation. At the meeting, City staff once again requested the vendor to provide a breakdown of hours and notations to reflect the work that had taken place on the respective four projects. Wise and Hammer agreed to provide this detailed information. The City advised the vendor that the information was to be provided within two weeks (July 24, 2017).

On August 26, 2017, Wise and Hammer submitted Invoice #496 via email, entitled *FACT-1115-02 - Final Account Balance – Invoice*. All notations and information within the invoice reflected nearly the same information and level of detail as was provided by Wise and Hammer in the Detailed Time Report that they previously provided. The vendor also appears to have included additional hours in the details that were not previously reported or documented. As a result, staff was still neither able to determine which hours were expended towards work on the specific KFL&A projects or the City of Hamilton projects nor how much work is outstanding against the invoices that were previously paid.

Invoice #496 reflected an outstanding amount of \$15,460.66 charged to the City of Hamilton for additional hours that were spent on all four projects.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

The City may exercise its discretion to reject any future bid, proposal or quotation from and to not enter into any contract with Wise and Hammer or any of its related corporate or individual entities, in accordance with the terms of the City's Procurement Policy until such time Council considers that the commercial relationship of the parties is no longer impaired. The relevant portions of the Policy appear in the Analysis section below.

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SUBJECT: Commercial Relationship Between the City of Hamilton and Ontario Inc. 2380585, c/o Wise and Hammer Inc. and Related Entities (FCS170805(a)/ BOH17042(a)) (City Wide) - Page 5 of 7

RELEVANT CONSULTATION

Staff from the Tobacco Control Program Section has been involved in the discussions with the vendor and attended the meeting to discuss the vendor performance and non-performance issues. They have also been consulted with respect to the contents and recommendations set out in this Report.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

Procurement Policy

The City of Hamilton's By-Law No. 17-064, Procurement Policy, Policy #1 – Vendor Eligibility, Section 4.1 (10) and (11) state the following:

- (10) *Where the Manager of Procurement has demonstrated and the Procurement Sub-Committee is satisfied that there is sufficient evidence of act(s) or omission(s) described in this Policy #1 on the part of a vendor, **the Procurement Sub-Committee may impose an interim ban upon the vendor** from competing or being awarded any City Contract, under the following circumstances:*
- (a) *while an investigation is being conducted by the Manager of Procurement;*
 - (b) *while there is documented poor performance or non-performance that has not been resolved to the City's satisfaction and which has impaired the commercial relationship between the City and the vendor such that the vendor ought to be precluded from submitting bids on other contracts until the vendor performance issues have been rectified; or*
 - (c) *when a vendor has been found to be in breach of a City Contract and which breach has impaired the commercial relationship between the City and the vendor such that an interim ban is necessary in order to preclude the vendor from submitting bids on other contracts pending litigation or a final ban.*
- The interim ban may be imposed for a period of up to 12 months. The Procurement Sub-Committee's decision shall be final with respect to the interim ban.*
- (11) *Where an interim ban is imposed under subsection (10), the Manager of Procurement shall, prior to the expiry of the interim ban, report to the appropriate standing committee of Council the status of the investigation and any recommendations for further action.*

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Proposed Ban

In accordance with the Procurement Sub-Committee's direction to staff, this Report recommends a ban upon Wise and Hammer for a period of up to five years for documented poor performance and non-performance. At the time of this Report and to City staff's knowledge, no further work has been done on any of the remaining three projects since August 26, 2017. The only communication staff has received from Wise and Hammer has been monthly past due invoice reminders requesting payment of \$15,460.66.

The poor performance and non-performance demonstrated by Wise and Hammer has not been resolved to the City's satisfaction and has impaired the commercial relationship between the City and the vendor such that the vendor ought to be precluded from submitting bids on other contracts until the vendor performance issues have been resolved. It continues to be City staff's opinion that the vendor has demonstrated an unwillingness to work with the TCP Section staff to complete the projects in accordance with the scope of work and cost estimate developed in October 2016 and which cost estimate was prepaid to them in October 2016.

Allowing Wise and Hammer and any of its related corporate and individual entities to bid on further City projects or enter into new City contracts at this time would remove any incentive for them to complete the work and would excuse the vendor's poor performance, non-performance and work refusal which would likely impose additional strain on the commercial relationship between the City and the vendor.

ALTERNATIVES FOR CONSIDERATION

Council could lift the interim ban and continue to allow Wise and Hammer and any of its related corporate and individual entities to continue to bid on City projects despite the City staff recommendation. This alternative is not recommended given the significant difficulties that City staff has experienced with the vendor as set forth in this Report.

Council may wish to consider a shorter or longer ban than the proposed five year ban.

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SUBJECT: Commercial Relationship Between the City of Hamilton and Ontario Inc. 2380585, c/o Wise and Hammer Inc. and Related Entities (FCS170805(a)/ BOH17042(a)) (City Wide) - Page 7 of 7

ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN

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APPENDICES AND SCHEDULES ATTACHED

Appendix “A” to Report FCS170805(a)/BOH17042(a) - Chronology of Events for Vendor Performance Issues with Wise and Hammer

TI/dw

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Appendix "A" to Report FCS17085(a)/BOH17042(a)

Page 1 of 4

Chronology of Events for Vendor Performance Issues with Wise and Hammer

On or around July, 2016	Wise and Hammer is engaged to complete four graphic/web design projects, two for use by the City of Hamilton Tobacco Control Program Division and two for use by other provincial Tobacco Control network partners, to be paid by the Kingston, Frontenac and Lennox and Addington Public Health ("KFL&A").
July and August, 2016	<p>Staff communicates with Wise and Hammer to finalize the scope of work involved in the four projects and to create estimates for each of the projects.</p> <p>City staff is of the understanding that a template is to be developed, based on the development of the first project and then replicated for the remaining three projects.</p>
August 30, 2016	<p>Wise and Hammer issue four estimates, detailing the description of services and the costs associated with the work. Estimates state:</p> <p><i>"Any items not outlined in this proposal shall be considered beyond the Scope of Work and will exceed the Estimated Fees. Out-of-scope items will require prior Client approval in the form of a Change Order (Change Request) before being added to the Scope of Work."</i></p>
September 22, 2016	<p>Wise and Hammer issue four invoices matching all information detailed in the estimates. Invoices include the same term and condition regarding change orders as set out above.</p> <p>All invoices are issued for the full amount of the cost of services as indicated in estimate and are due within 30 days of receipt.</p>
October 21, 2016	<p>City issues payment to Wise and Hammer for two respective invoices.</p> <p>KFL&A issues payment as well.</p>
Months of August, 2016 through to January, 2017	Wise and Hammer works on project and continues to communicate with City of Hamilton staff regarding deliverables.
January 13, 2017	<p>Wise and Hammer advises City staff that additional hours have been spent on the projects and that they were <i>"now 4x the agreed upon original budget in the hours used and over a month past the deliverables to be completed originally discussed"</i>.</p> <p>City staff becomes aware that all work to date has been towards</p>

Appendix "A" to Report FCS17085(a)/BOH17042(a)

Page 2 of 4

	<p>the KFL&A project "<i>Freeze the Industry</i>" only. No other work has been completed on any of the three remaining projects.</p> <p>As of this date, no request for approval of additional hours or extra work has been made by the vendor to City staff.</p>
January 18, 2017	<p>City staff contact Wise and Hammer to schedule a face-to-face meeting to discuss the City's projects (including video and public service announcement) discuss, address the additional hours and develop a plan to move the projects forward with remainder of the work.</p> <p>City Staff indicates to Wise and Hammer that staff is willing to re-quote/re-scope as needed based on learnings from 1st campaign package and bill accordingly.</p>
February 2, 2017	<p>Wise and Hammer provides information regarding work completed to date and work in progress. They note that all items related to the City's invoices #397 & #398 are listed as "not started". Only work related to the KFL&A project <i>Freeze the Industry</i> has been completed.</p>
March 3, 2017,	<p>Staff receive email from Wise and Hammer indicating:</p> <p><i>"For all Projects there were a total of 316 hours allocated.</i></p> <p><i>We are now nearing 200 hours over our allocations with your account sitting at around 492.50 hrs.</i></p> <p><i>At your reduced rate that is an overage of around \$17,650.00 – I have attached your statement of account along with the original estimates."</i></p> <p>Included in the email, staff is provided with a "Detail Time Report" generated by the vendor. The report includes project details and number of hours worked from August 4, 2016 to February 17, 2017. It is clear from the report that the vendor used only one project title <i>Unfiltered Facts</i> to identify all project details and hours spent to date. There is no notation that any work was completed for the other remaining three projects.</p>
March 6, 2017	<p>City staff requests Wise and Hammer for a detailed list of work completed to date and all communication regarding the projects. Information is to be broken down by project and correspond to the applicable invoices paid.</p> <p>Wise and Hammer indicates information to be sent by March 13, 2017.</p>
March 14, 2017	<p>No information has been received.</p>

Appendix "A" to Report FCS17085(a)/BOH17042(a)

Page 3 of 4

	City staff makes second request for same information.
March 24, 2017	<p>No information has been received.</p> <p>City staff makes third request for same information.</p> <p>Wise & Hammer delivers to Tobacco Control Program Division office a USB with final campaign package files for KFL&A project "<i>Freeze the Industry</i>". The USB is not formatted correctly. City staff emails Wise and Hammer requesting to have USB re-formatted.</p> <p>Final re-formatted USB with KFL&A project files is delivered to City's office by end of day. After inspection of the files, City staff becomes aware that the files are not able to be modified or nor do they have the credentials to access or modify the website that was developed.</p>
April 27, 2017	City staff itemize their concerns in a formal Vendor Performance – Incident Reporting Form ("VP Form") and forward it to Wise and Hammer for comment.
May 17, 2017	Wise and Hammer submit their response to the VP Form.
June 19, 2017	City requests a face-to-face meeting to discuss the status of the projects and resolution to the matter. Numerous emails are exchanged to find a date and time convenient for all attendees.
July 10, 2017	<p>Meeting is held between Wise and Hammer and City staff from the Tobacco Control Program Division and Procurement Section.</p> <p>At the meeting, Wise and Hammer agrees to provide a breakdown of hours and notations to reflect the work that has taken place on the respective four projects.</p> <p>The City advises that this information is to be provided within two weeks (July 24, 2017).</p>
August 26, 2017	<p>Wise and Hammer Invoice #496, entitled <i>FACT-1115-02 - Final Account Balance – Invoice</i> is received by City staff. All notations in invoice reflect the nearly the same details as provided by Wise and Hammer in their previous Detailed Time Report. The invoice also reflects additional hours allocated to the four projects not previously report to City staff.</p> <p>Wise and Hammer failed to submit detailed tracking broken down by hours, project or invoice but rather resubmitted the invoices citing all hours and project details lumped together, with no delineation of one project from another.</p>

Appendix "A" to Report FCS17085(a)/BOH17042(a)**Page 4 of 4**

	<p>Staff is not able to determine how much work remains outstanding against the invoices that were previously paid.</p> <p>Invoice #496 reflects an outstanding amount of \$15,460.66 charged to the City of Hamilton for additional hours spent on all four projects.</p>
May 2018	<p>City Procurement staff continue to receive email notices of a past due invoice from Wise and Hammer in the amount of \$15,460.66.</p>



CITY OF HAMILTON
CORPORATE SERVICES DEPARTMENT
Financial Services Division

TO:	Chair and Members Audit, Finance and Administration Committee
COMMITTEE DATE:	August 15, 2018
SUBJECT/REPORT NO:	Toronto Tank Lines – Property Tax Arrears (FCS18076) (Ward 5) (Outstanding Business List Item)
WARD(S) AFFECTED:	Ward 5
PREPARED BY:	Maria Di Santo (905) 546-2424 Ext. 5254 David Janaszek (905) 546-2424 Ext. 4546
SUBMITTED BY:	Rick Male Director, Financial Services, Taxation and Corporate Controller Corporate Services
SIGNATURE:	

RECOMMENDATIONS

- (a) That no adjustments to the taxes levied and/or penalty and interest charges incurred on roll number 051.493.00030.0000 (804 BEACH BLVD) be made until the pending assessment appeals are settled, and only if the pending assessment appeals result in a reduction to the property's assessment.
- (b) That staff initiate discussions to establish a process that would ensure that the Municipal Property Assessment Corporation (MPAC) and the City of Hamilton (City) be provided timely notification and access to all development activity occurring on Federal lands, specifically the Hamilton Port Authority lands.
- (c) That staff investigate the possibility of any regulatory or legislative changes to require the Federal government to comply with the Ontario Building Code with respect to the application for a municipal building permit for all development activity occurring on its lands.
- (d) That the item identified as "Staff Report Respecting Supplemental Taxes and Assessment Complaints Respecting 500 Eastport Blvd" be removed from the Audit Finance & Administration Committee's Outstanding Business List.

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**SUBJECT: Toronto Tank Lines – Property Tax Arrears (FCS18076) (Ward 5)
(Outstanding Business List Item) - Page 2 of 7**

EXECUTIVE SUMMARY

Audit, Finance & Administration Committee, at its meeting on January 22, 2018 approved the following:

“That staff be directed to review the correspondence from Steve M. Pocrnic, President & CEO of Pocrnic Realty Advisors Inc., respecting 500 Eastport Blvd., Hamilton, supplemental taxes for 2013-2015; and, assessment complaints 2013-2018 (attached hereto), and report back to the Audit, Finance & Administration Committee with recommended options as to how to resolve the matter.”

The purpose of this Report is to provide Committee with staff recommendations to address this outstanding item. As a result of this Report, the item “Staff Reports Respecting Supplemental Taxes and Assessment Complaints Respecting 500 Eastport Blvd” (Toronto Tank Lines – Property Tax Arrears) will be considered complete and removed from the Audit, Finance & Administration outstanding business list.

Toronto Tank Lines (TTL) is a tenant of the Hamilton Port Authority (HPA) and has leased land from the HPA since 2004 for its’ business operations. TTL is currently in property tax arrears of \$387,927.44 which stems predominately from supplementary/omitted property taxes levied in 2015. These supplementary/omitted property taxes were for additional assessment resulting from the construction of a maintenance facility/building and 15 large storage tanks. Although the maintenance building has existed since 2003 (as indicated by TTL’s representative) and the storage tanks constructed at various stages between 2003 and 2010, these structures were not assessed by the Municipal Property Assessment Corporation (MPAC) for taxation purposes until 2015.

A building permit was issued in 2003 for TTL’s truck wash and maintenance facility/building, however no building permits were issued for the 15 storage tanks. MPAC has advised that they do not have any record of the 2003 building permit (which at that time the City provided only paper copies to MPAC), and as a result, were unaware of the structures. This resulted in the structures not being assessed for taxation purposes.

Regardless of the omission, the structures were constructed during the period of 2003 – 2010 and therefore subject to assessment and ultimately taxation (Appendix C to Report FCS18076 provides aerial maps identifying these additional structures constructed over this time period). The *Assessment Act*, however, only allows MPAC to assess omissions in the current year and a maximum of two prior years. As such, since the building and tanks were not assessed until 2015, the municipality can only levy taxes back to 2013 (two prior years). As a result, the City has foregone property tax revenue for these structures for 2012 and applicable prior years.

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**SUBJECT: Toronto Tank Lines – Property Tax Arrears (FCS18076) (Ward 5)
(Outstanding Business List Item) - Page 3 of 7**

Considering the forgone taxation revenue that would have been realized had the structures been assessed for the full duration of their existence, estimated to be approximately \$300,000 to \$400,000, staff are not recommending any adjustments to reduce the current tax arrears or penalty/interest accrued.

Appeals of TTL's supplementary/omitted assessments, as well as annual appeals for subsequent tax years, have been filed with the Assessment Review Board (ARB) and are scheduled to commence in April 2019. Considering these pending appeals, staff are recommending that this property be treated similar to other properties under appeal, whereby any adjustments to the tax roll account are deferred until the assessment appeal is finalized. Any awarded assessment reduction will be processed through Minutes of Settlement or a Decision of the ARB. If the taxpayer has incurred penalty/interest on the tax roll account, the penalty/interest will be adjusted at that time to reflect the revised property taxes.

With respect to the delay in reflecting the development activity on the assessment roll, it should be noted that as of 2010, the City of Hamilton now provides MPAC with electronic listings of building permits, which greatly reduces the risk of missing permits. Unfortunately, however, there is no building permit requirement for development activity on Federal lands. Considering the foregone taxation revenue resulting from developments not being assessed within the allowable timeframe, staff are recommending the review of improved processes that may assist in protecting the City's financial interests.

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: The estimated foregone property tax revenue pertaining to the non-assessment of TTL's maintenance facility and storage tanks from 2003 to 2012 is estimated at approximately \$300,000 to \$400,000. As such, staff are not recommending any relief for the current tax arrears as a result of the November 2015 supplementary/omitted tax billing, which under the Assessment Act, only allowed the taxation for these structures back to 2013. As the property owner has appealed the property's value, it is also prudent to allow the appeal process to run its course. Once the appeals are settled, staff will proceed to adjust the tax roll account if any reduction in the property's value is awarded. It is expected that TTL will settle the arrears once the appeal process is complete.

It should be noted that if the arrears are not eventually paid, the City cannot exercise powers of collection under Part XI Sale of Land for Tax Arrears of the *Municipal Act*, as TTL leases the land it occupies from the HPA, which is a Federal property. The City's option with respect to collection of the property tax arrears would be through the use of Bailiff services. It is not likely that the City would need to resort to this measure, as it is expected that

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**SUBJECT: Toronto Tank Lines – Property Tax Arrears (FCS18076) (Ward 5)
(Outstanding Business List Item) - Page 4 of 7**

failure to settle the arrears may lead to the lease termination by the HPA. If such action occurs, the City would then submit a request to the HPA for payment of these arrears. Unfortunately, however, there is no guarantee as to how much of the arrears the HPA would agree to pay.

Staffing: Not Applicable

Legal: Not Applicable

HISTORICAL BACKGROUND

The Municipal Property Assessment Corporation (MPAC) is responsible for assessing and classifying all properties in Ontario in compliance with the *Assessment Act* and regulations set by the Government of Ontario. Property taxes are determined and billed by municipalities, using the property's assessment as determined by MPAC.

Property assessment notices are mailed by MPAC and it is the responsibility of the property owner or assessed person to ensure the accuracy of their property assessment. The assessment notices also contain all of the necessary information to obtain the assessment valuation details for the property. The available options for review or appeal of the assessment are also included should the accuracy of the assessment be in question.

As a tenant of the Hamilton Port Authority (HPA), Toronto Tank Lines (TTL) has been subject to property assessment and property taxes since 2004. The history of land leased and the property assessment and taxation history is summarized in Appendix "B" ("Land Lease and Property Assessment and Tax History - Toronto Tank Lines") to Report FCS18076.

TTL is currently in property tax arrears which stems from supplementary/omitted property taxes levied in November 2015 pertaining to taxation years 2013-2015. These property taxes were in addition to the property taxes originally billed for the 2013-2015 tax years and were based on supplementary/omitted assessments issued by MPAC which increased their property's assessed value. The increase to the assessed value was based on the assessment for an additional 2.46 acres of land leased and the assessment of TTL's maintenance facility/building, 15 large storage tanks, a weigh scale and asphalt. The construction of TTL's building began in 2003, while the 15 large storage tanks were constructed in various stages over a number of years as can be seen in Appendix "C" ("Aerial Maps") to Report FCS18076. Although the construction of the building was completed sometime in 2003 (as indicated by TTL's representative), while the 15 tanks were completed in stages between 2003 and 2010, these structures had not been assessed by MPAC for taxation purposes until 2015.

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**SUBJECT: Toronto Tank Lines – Property Tax Arrears (FCS18076) (Ward 5)
(Outstanding Business List Item) - Page 5 of 7**

The HPA provides listings to both MPAC and the City several times per year to inform of new leases/tenants, changes to existing tenant areas (additions or reduction in space for existing tenants) and lease terminations/expiries. These listings do not identify or advise of new construction or improvements on HPA lands. These listings are used to generate the appropriate assessment and property tax changes where applicable. An increase of 2.46 acres in land leased by TTL was included on a listing provided by HPA. It was at this time, when MPAC was preparing the assessment of the additional leased land, that the omission of structures was identified, triggering the eventual supplementary/omitted billings in November 2015.

City records confirm that building permit 03-204896-000-00 I3 was issued in June 2003 for construction of a 3,201-sq. m. truck wash and maintenance facility. This building permit reflected an agreed upon construction cost of \$2,500,000. No building permits were issued for any of the 15 storage tanks that were constructed.

MPAC relies on Municipalities to provide information pertaining to municipal building permits issued so that they are apprised of physical changes occurring on properties, which in turn may result in changes to a property's assessment and property taxes. The City of Hamilton currently provides MPAC with electronic listings of building permits issued monthly. Prior to 2010, this process was manual in that the City provided MPAC with paper copies of building permits issued. Unfortunately, there is no system in place to track what was provided to MPAC prior to the electronic building permit submissions.

As the 2003 building permit issued for the truck wash and maintenance facility/building was during the period where paper copies of permits were provided to MPAC, staff cannot confirm that a copy of the building permit was in fact forwarded to MPAC. MPAC has advised that they are unable to locate a copy of the building permit and are unable to confirm that a copy was ever received. Regardless of the omission, the structures were constructed during the period of 2003 – 2010 and therefore subject to property assessment and ultimately taxation, within the time limitations of the Assessment Act.

Currently, a municipal building permit application is not required as it pertains to development or construction occurring on Federal lands. As such, in absence of a building permit, no formal process exists to notify municipalities or MPAC of any construction or development activity taking place on Federal lands.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

MPAC determines a property's current value assessment in accordance with the Assessment Act. Taxpayer's have a right to appeal the value determined by MPAC either through a Request for Reconsideration or through a formal appeal with the Assessment Review Board (ARB). Similar to the treatment of other properties under appeal, any adjustments to the tax roll account are deferred until such as at the

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**SUBJECT: Toronto Tank Lines – Property Tax Arrears (FCS18076) (Ward 5)
(Outstanding Business List Item) - Page 6 of 7**

assessment appeal is finalized. Any awarded assessment reduction will be processed through Minutes of Settlement or a Decision of the ARB.

Property taxes are levied and collected by the municipality in adherence to the Municipal Act, 2001.

Penalty and Interest charges incurred for non-payment or late payment of property taxes are in adherence to City of Hamilton by-law 13-136 “A BY-LAW TO IMPOSE LATE PAYMENT CHARGES FOR THE NON-PAYMENT OF TAXES”.

RELEVANT CONSULTATION

- The Municipal Property Assessment Corporation (MPAC)
- Planning Department - Building Division

ANALYSIS AND RATIONALE FOR RECOMMENDATION

Regardless of the delay in adding the structures to the assessment roll, they were constructed during the period of 2003 – 2010 and therefore subject to property assessment and ultimately taxation. Given the size and value of the improvements, TTL should have reasonably expected to experience substantial assessment and property tax increases as construction of the additional structures were completed.

Although the property was assessed and taxed beginning in 2004, the assessed value for taxation years 2004 - 2012 ranged from just 268,400 to 588,700. As the 2003 building permit for the maintenance facility reflected a construction value of \$2,500,000, this should have triggered TTL to question why the property was assessed substantially less than the construction value. This is contrary to correspondence from TTL’s tax agent (Appendix “A” to Report FCS18076 “Correspondence from Steve Pocrnic, Pocrnic Realty Advisors – 500 Eastport Blvd, Hamilton.”), whereby it is stated that “6) *Notwithstanding the assessability of these improvements TTL had always been under the assumption and understanding that they were assessed the appropriate CVA of their lands including all improvements.*” Due to the significant discrepancy between the construction value and the assessment, it is reasonable to assume that the assessment used for taxation purposes may in fact not have considered the newly constructed buildings and tanks.

MPAC relies on Municipalities for building permit information so that it is aware of physical changes occurring on properties which may result in changes to a property’s assessment and ultimately, property taxes. As a municipal building permit application is not required for development or construction occurring on Federal lands, there is no formal process to notify Municipalities or MPAC of any development activity taking place. Through this report, staff are therefore recommending a review to improve the

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**SUBJECT: Toronto Tank Lines – Property Tax Arrears (FCS18076) (Ward 5)
(Outstanding Business List Item) - Page 7 of 7**

current process to mitigate delays in new developments being assessed for taxation purposes.

ALTERNATIVES FOR CONSIDERATION

Staff are not recommending any alternatives.

ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN

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APPENDICES AND SCHEDULES ATTACHED

Appendix “A” - Correspondence from Steve Pocrnic, Pocrnic Realty Advisors – 500 Eastport Blvd, Hamilton

Appendix “B” – Land Lease and Property Assessment & Tax History - Toronto Tank Lines

Appendix “C” - Aerial Maps

MD/dw

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January 5, 2018



VIA ELECTRONIC TRANSMISSION

City of Hamilton
Hamilton City Hall
2nd floor - 71 Main Street West
Hamilton, Ontario L8P 4Y5

Attention: Lloyd Ferguson, City Councillor Ward 12

Re: 500 Eastport Blvd., Hamilton
Supplemental Taxes for 2013-2016
Assessment Complaints 2013-2018

Dear Councillor Ferguson,

This letter is further to your meeting with Mike McCalmont from Toronto Tank Lines (TTL) and his request for intervention and assistance with the above property. Mr. McCalmont is principal of Toronto Tank Lines (1040135 Ontario Inc.) who occupy 14.35 acres of Hamilton Port Authority land where they operate a Bulk Liquid Cargo and Transportation business. This business has been in operation on these lands since 2003 and now employs 112 people on its premise which contributes substantially to the local and basic employment of this municipality.

I have been retained by TTL and Mr. McCalmont to appeal supplemental assessments issued by MPAC. Appeals have been filed for 2013, 2014, 2015, 2016, 2017 and now 2018 taxation years.

The extent of our complaints in this matter is not limited to property assessment. Unfortunately under the new Board rules these complaints will not commence until April 2019 suggesting 2020 as the earliest relief date. I have been asked to update you on matters within the City's influence and the relevant considerations.

- 1) On October 8, 2015, TTL was served with a Supplemental Assessment Notice to reflect legally authorized construction of an industrial building and 3 bulk tanks that were added to the Port Authority Lands in 2003. The supplemental taxes were retroactive to 2013-2015 taxation years consistent with the limitations of the Assessment Act.
- 2) Two subsequent supplemental tax bills were received in November 2015 for the same period. Additional taxes were imposed on TTL for the period. On Aggregate, \$2,701,040 of CVA was phased-in and added to the original assessment of \$898,584.
- 3) Notwithstanding a revised CVA of \$4,344,900 determined for 2012 CVA, MPAC has revised the 2016 CVA to \$3,737,200 suggesting an overly aggressive valuation for the cycle initially appealed.

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In addition to having to deal with the appropriateness and equitable level of assessment, TTL takes particular issue on the following:

- 4) Building Improvements on the lands were actually completed in 2003 pursuant to a permit issued by City of Hamilton (Permit No. 032048960013);
- 5) The City of Hamilton endorsed the proposal to add 3 bulk tanks to the Lands on July 11, 2003.
- 6) Notwithstanding the assessability of these improvements TTL had always been under the assumption and understanding that they were assessed the appropriate CVA of their lands including all improvements. These improvements were lawfully processed with full knowledge of the municipality.
- 7) Based on TTL's reliance on the integrity of assessment and taxation system they had good reason to rely on the fairness of their property tax expenses.
- 8) Relying on normalized operating costs and assessment since 2004, TTL committed to additional labour and capital equipment over the years. Trucking supply and delivery pricing was routinely set relative to those costs.
- 9) Subleased area on site and tax recoveries have long since been reconciled with the tenants of TTL. These leases were also negotiated without consideration to the full tax burden of the sub-landlord.
- 10) The above matters suggest negligence by the City and MPAC to bring assessment forward in a timely manner which has contributed to the strife of our client's business, TTL.

Our client pleads that the responsibility for recovery of these tax dollars should be substantially curtailed under the circumstances on account of the following:

- A) Tax revenue for the years in question were never anticipated or budgeted for and as a result have already been absorbed and spread across the tax rate set by the municipality for those tax years;
- B) The City through its alliance with MPAC to deliver accurate and timely assessments should accept responsibility for the forfeiture of approximately \$700,000 in tax revenue between 2003-2013;
- C) The City through its assessment omission has indirectly misled TTL and prompted them to prematurely develop and expand their business. It has at the same time been enriched through the local employment created by TTL and the productivity of lands that may have otherwise sat dormant and assessable at substantially lower levels;

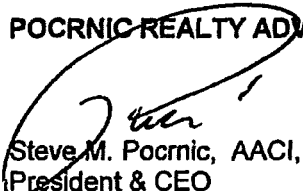
D) TTL understands its accountability to assessment and tax. It recognizes however, that these taxes are partly intended to pay for safe guards in the system and processes it should be able to rely upon for the purposes of running its business. TTL expects that in return for this consideration that there is reciprocal accountability from the stakeholders to insulate it from errors whether they stem from oversight or negligence. TTL does not believe it should be singled out to absorb past taxes without some contribution or relief from parties responsible. MPAC and the City have otherwise prevented TTL the ability to pass on its costs through its foodchain.

As residents of Ancaster who contribute substantially to the services supplied to this community, we ask for your assistance and appeal to your sense of equity and fairness to mitigate the impact of these taxes on TTL. All other matters of equity and valuation will be resolved by us through the Assessment Review Board.

Please feel free to contact me for further clarification is required relative to the technical matters of assessment or valuation.

Sincerely,

POCRNIC REALTY ADVISORS INC.



Steve M. Pocrnic, AACI, P.App., CCIM, A.I.M.A.
President & CEO

Copy: Mike McCalmont, Toronto Tank Lines
mikem@torontotanklines.com



Appendix "B" to Report FCS18076 Page 1 of 1

Toronto Tank Lines

History of Land Leased from the Hamilton Port Authority

	Square Feet	Acres	Effective Date
Initial Land Lease	237,532	5.453	01-Jan-04
Additional Land Lease	5,850	0.134	01-Feb-05
Additional Land Lease	187,119	4.296	01-Sep-05
Additional Land Lease	87,119	2.000	01-Oct-06
Additional Land Lease	107,330	2.464	01-May-14
Total	624,950	14.347	

Property Assessment & Property Tax History

Tax Year	Assessment Value	Property Taxes	Description	Remarks
2004	268,414	\$12,931.24	Original Taxes Levied	Land
2005	268,414	\$12,872.61	Original Taxes Levied	Land
2006	264,875	\$12,047.10	Original Taxes Levied	Land
2007	264,875	\$11,995.09	Original Taxes Levied	Land
2008	264,800	\$12,109.43	Original Taxes Levied	Land
2009	304,600	\$13,170.56	Original Taxes Levied	Land
2010	465,198	\$19,136.16	Original Taxes Levied	Land
2011	526,949	\$20,634.54	Original Taxes Levied	Land
2012	588,700	\$22,025.14	Original Taxes Levied	Land
2013	902,300	\$33,449.04	Original Taxes Levied	Land
	1,165,681	\$43,212.81	Supp/Omit Taxes Levied	Building & Tanks
	2,067,981	\$76,661.85		
2014	1,215,900	\$44,326.34	Original Taxes Levied	Land
	211,369	\$5,172.24	Supp/Omit Taxes Levied	Additional Land 2.464 Acres
	1,570,821	\$57,265.18	Supp/Omit Taxes Levied	Building & Tanks
	2,998,090	\$106,763.76		
2015	1,282,204	\$46,438.08	Original Taxes Levied	Land
	265,884	\$9,629.61	Supp/Omit Taxes Levied	Additional Land 2.464 Acres
	1,975,961	\$71,564.15	Supp/Omit Taxes Levied	Building & Tanks
	81,575	\$2,954.44	Supp/Omit Taxes Levied	Weigh Scale & Asphalt
	3,605,624	\$130,586.28		
2016	4,344,900	\$155,241.00	Original Taxes Levied	Land & Improvements
2017	3,737,200	\$127,717.27	Original Taxes Levied	Land & Improvements
	802,075	\$27,410.58	Post Roll Amended Notice	Correction to land area assessed
	4,539,275	\$155,127.85		
2018	4,733,650	\$154,277.74	Original Taxes Levied	Land & Improvements

Appendix "C" to Report FCS18076
Page 1 of 3

2002 Aerial map reflects vacant land - future location of Toronto Tank Lines maintenance building and tanks:



2005 Aerial map reflects Toronto Tank Lines maintenance building and 6 existing tanks, with 2 additional tanks under construction:



Appendix "C" to Report FCS18076
Page 2 of 3

2007 Aerial map reflects Toronto Tank Lines maintenance building and 12 existing tanks, with 1 additional tank under construction:



2010 Aerial map reflects Toronto Tank Lines maintenance building and 15 existing tanks:



Appendix "C" to Report FCS18076
Page 3 of 3

2017 Aerial map reflects no additional improvements since the 2010 Aerial map:





CITY OF HAMILTON
CORPORATE SERVICES DEPARTMENT
Financial Planning, Administration and Policy Division

TO:	Chair and Members Audit, Finance and Administration Committee
COMMITTEE DATE:	August 15, 2018
SUBJECT/REPORT NO:	Water and Wastewater / Storm Consecutive Estimated Accounts Policy Amendment (FCS18074) (City Wide)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	John Savoia (905) 546-2424 Ext. 7298
SUBMITTED BY:	Brian McMullen Director, Financial Planning, Administration and Policy Corporate Services Department
SIGNATURE:	

RECOMMENDATIONS

- (a) That the amended Water and Wastewater / Storm Consecutive Estimated Accounts Policy, attached as Appendix "A" to Report FCS18074, be approved;
- (b) That the following user fees be approved and that the City Solicitor be authorized and directed to prepare for Council approval all necessary by-laws to add the fees to the 2018 Water and Wastewater / Storm Fees and Charges By-law:
- (i) Non-compliance Administration: \$20.00 plus HST
 - (ii) Non-compliance Notification Posting: \$25.00 plus HST
 - (iii) Non-compliance Turning Water Off: \$76.50 (HST exempt)
 - (iv) Non-compliance Turning Water On: \$76.50 (HST exempt)
- (c) That the City Solicitor be authorized and directed to prepare all necessary by-laws to implement the Water and Wastewater / Storm Arrears Policy set out in Recommendation (a) of Report FCS18074 which may include necessary amendments to be made to the Waterworks By-law R84-026.

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**SUBJECT: Water and Wastewater / Storm Consecutive Estimated Accounts
Policy Amendment (FCS18074) (City Wide) – Page 2 of 9**

EXECUTIVE SUMMARY

Pursuant to the Waterworks By-law R84-026 of the City of Hamilton (the “Waterworks By-law”), billing for the supply of water in the City of Hamilton is, in part, based on the consumption registered on the water metering equipment. Where no water meter has been installed, billing is based on a non-metered or flat-rate basis (based on 1m³/day or multiples thereof). The Waterworks By-law requires customers to provide access to the City to the water meter and related equipment for the purpose of meter reading, installation, inspection, maintenance or repair. Where access to the water meter and related equipment is not provided and actual water consumption cannot be obtained by the City, water consumption is billed by the City’s billing agent, Alectra Utilities Corporation (“AUC”), based on estimated consumption amounts. This practice is reflected in the current Water and Wastewater / Storm Consecutive Estimates Policy (“Policy”). Typically, the consumption estimate is based on the prior historical average usage for the account reflecting a similar period of time. Where no historical consumption exists for the account, estimated readings may be made using consumption of metered accounts of the same customer rate class. Where the failure or refusal to provide access to the metering equipment persists, consecutive estimated accounts are rendered.

The City and AUC undertake several actions with the view of obtaining access to the metering equipment and addressing the issue of consecutively estimated accounts. The Policy provides for the option of invoicing on a “double-flat rate” billing (2m³/day) and “triple-flat rate” (3m³/day) billing basis as a staged progressive approach commencing after three consecutive estimated billings, until such time as access is granted to ensure ongoing actual water meter reads and billings based on those actual reads. This double and triple-flat billing provision has, in most cases, proven to provide an effective incentive for customers to allow access to the water metering equipment to obtain the required actual consumption readings. Additionally, increased estimated billings helps to minimize “catch-up” billings that can result from a period of increased consumption following estimated billings. The attempts of the City and AUC to address consecutively estimated accounts have achieved a level of success. However, there continues to be many properties that consistently remain unresolved on the consecutively estimated accounts list notwithstanding efforts made by the City and AUC to resolve the issues by obtaining access.

Depending on the facts of the case, the ability of the City to collect water and wastewater / storm revenue for accounts estimated for a period longer than two years can be jeopardized by the applicability of a two-year limitation period prescribed by the *Limitations Act, 2002*. The City’s practices regarding Water and Wastewater / Storm Utility Back-Bill Adjustments take into consideration the *Limitations Act, 2002* and therefore, the ability to collect under-billed amounts may be limited when the City is faced with aged consecutive estimated accounts.

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SUBJECT: Water and Wastewater / Storm Consecutive Estimated Accounts Policy Amendment (FCS18074) (City Wide) – Page 3 of 9

The need to address consecutively estimated accounts has been identified in previous internal audits where the auditor noted that the more consecutive times an account is billed, the more likely there will be an over / under billing situation that creates billing adjustments with under-billings affecting revenue collection. The audits noted that generally the underlying issue for the long-term estimates has been the inability for the City to repair remote reading devices (touchpads) due to inability to obtain access to make such repairs.

The purpose of this Report is to recommend an amendment to the Policy to address those situations where the staged progressive estimated billing provisions have not proven to be effective in securing access to the water metering equipment and resolving consecutively estimated billings. There have been several examples where accounts have been on increased estimated billings for several years. In some cases, the increased billings simply go unpaid and are transferred to the property tax roll. Additionally, some long-term estimated properties are vacant with active water service despite a requirement under the Waterworks By-law for property owners of vacant properties to call the City to shut the water service off at the property line.

Staff proposes to amend the Policy to incorporate the option of service disconnection as a last resort when the other means provided for by the Policy have failed to encourage the customers to provide access for the purpose of obtaining actual reads. Service disconnection is employed by other Ontario water utilities to address various situations such as when the customer refuses access to the residential premises for a necessary inspection / maintenance of utility property, including but not limited to the reading of meters.

Alternatives for Consideration – Not Applicable

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: Water and wastewater / storm revenue recovery related to unbilled consumption due to ongoing consecutive estimates may be enhanced with the proposed Policy amendments.

Staffing: Hamilton Water and / or contracted staff will turn off water service and subsequently turn on the water service once access to the water metering equipment is provided for the purpose of meter reading, installation, inspection, maintenance or repair. The City will cost recover for the administration and disconnection / restoration of water service by applying the related user fees as proposed in Recommendation (b) of Report FCS18074.

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SUBJECT: Water and Wastewater / Storm Consecutive Estimated Accounts Policy Amendment (FCS18074) (City Wide) – Page 4 of 9

Legal: With the approval of the recommendation of Report FCS18074, staff will have authority to employ service disconnection to address situations where a customer refuses to provide access to the residential premises for a necessary inspection / maintenance of utility property, including but not limited to the reading of meters.

HISTORICAL BACKGROUND

The Waterworks By-law, as amended, provides that billing for the supply of water is based, in part, on the consumption registered on the water meter. In the uncommon event where no meter has been installed, billing is made on a non-metered or flat-rate basis (based on 1m³/day or multiples). Typically, in order for water meters to be read, there is the need for a remote reading device (“touchpad”) to be installed which requires access to be provided to the City or its authorized agents for this purpose.

The City or its agent is on occasion unable to obtain a water meter reading for billing purposes for a variety of reasons including:

- Touchpad missing / damaged / not reading
- Site conditions such as snow / construction / mud impeding access to the touchpad
- Locked / frozen gates preventing access to touchpad
- Issues related to access keys utilized by meter readers
- Vacant properties with no access for meter readers
- Dog / animal posing a safety hazard for meter readers

The City and its water and wastewater / storm billing agent, AUC, exercise due diligence in the usual practice of water meter reading. In circumstances where a water meter read cannot be obtained due to access issues, an estimated reading is used to render a water and wastewater / storm invoice. Where the inability to obtain access continues, the City and AUC issue consecutive estimated accounts until such time as access is provided.

The City and AUC undertake a number of actions to address the issues of access and consecutively estimated accounts, primarily focused on communicating with account holders to obtain necessary co-operation for access to resolve the issue(s) that contribute to ongoing consecutively estimated billings.

Customer Communications:

- When unable to obtain a meter read, the meter readers leave a meter read request door hanger for the customer to call in / return read card with an actual consumption read from their water meter.

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SUBJECT: Water and Wastewater / Storm Consecutive Estimated Accounts Policy Amendment (FCS18074) (City Wide) – Page 5 of 9

- AUC will issue letters to customers where access prevents the meter readers from obtaining meter reads.
- An invoice which is based on estimated consumption does indicate to the customer that the related consumption reading is based on an “Estimate.”
- AUC issues work orders to the City Meter Operations Group to resolve touchpad issues that results in Meter Operations and / or contracted staff contacting customers both by phone and mail to make arrangements for access to perform the necessary maintenance work to allow for ongoing actual meter reads.

Depending on the facts of the case, the ability of the City to collect water and wastewater / storm revenue for accounts estimated for a period longer than two years can be jeopardized by the applicability of a two-year limitation period prescribed by the *Limitations Act, 2002*. For that reason, the amended Policy introduces another tool in the form of service disconnection, with the view of achieving timely compliance of the customer and access to the water metering equipment with the ultimate view of obtaining actual consumption reading for billing purposes.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

Sections 9 and 10 of the *Municipal Act, 2001* authorize the City to pass by-laws necessary or desirable for municipal purposes, and in particular, authorize by-laws respecting public assets of the municipality, the economic, social and environmental well-being of City, the safety and well-being of persons, services that it is authorized to provide, and the protection of persons and property.

Section 81 of the *Municipal Act, 2001* provides that a municipality may shut off the supply of a public utility by the municipality to land if fees or charges payable by the owners or occupant of the land for the supply of the public utility to the land are overdue. Section 81(3) of the *Municipal Act, 2001* requires the municipality to provide reasonable notice of the proposed shut-off to the owners and occupants of the land by personal service or prepaid mail or by posting the notice on the property. The required notice would presumably act as an incentive to achieve compliance and access prior to the date indicated for shut-off.

Section 18(4) of the Waterworks By-law R84-026 requires the owner of any premises having a water service that become vacant, to contact the City within twenty-four (24) hours of vacancy to notify, in writing, to shut-off the water at the street line and owner must pay the water shut-off user fee.

The Water / Wastewater User Service Fee and Charges Policy requires identification of both the cost of services provided and the fees / charges to recover such cost with the intent that full cost recovery is achieved.

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SUBJECT: Water and Wastewater / Storm Consecutive Estimated Accounts Policy Amendment (FCS18074) (City Wide) – Page 6 of 9

RELEVANT CONSULTATION

Corporate Services – Legal Services and Risk Management Divisions have been consulted in the preparation of this Report.

Alectra Utilities Corporation has been consulted and supports the adoption of this Report's recommendation.

Public Works – Hamilton Water Division has been consulted and has indicated it can support the implementation of the recommendations in this Report.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

As part of the review of the City's current practices regarding Water and Wastewater / Storm Consecutive Estimated Accounts, staff conducted a literature review. The review found that issues resulting in consecutive estimated accounts are common for all utilities. However, there are different approaches to dealing with the issue.

For some Canadian water utilities, notably (Prince Edward Island and Nova Scotia) and several utilities under the oversight of state Public Service Commissions that regulate water, gas, electric and telecommunication utilities in the United States, they are required, by their respective regulatory bodies, to not utilize estimated reading for more than two consecutive billing periods. If an estimated bill is rendered for two consecutive billing periods, the utility is required to notify the customer that arrangements must be made for the utility to obtain a meter reading and / or perform related maintenance work to allow for ongoing readings, and failing such arrangements, the utility may suspend service until such arrangements are made.

Several Ontario municipalities including Windsor, Stratford and Richmond Hill, utilize service disconnection to address ongoing estimated billings with some differences as to when such action may be undertaken.

In lieu of service disconnection, another approach taken by some utilities is to change the basis of estimated consumption from estimated metered consumption to a flat rate basis. For example, Halton Region, where after a third consecutive estimate, a letter is issued to the customer indicating that if compliance is not obtained, the account's estimated consumption will be moved to a flat rate basis that is based on the Region's average residential consumption usage of 1m³/day.

The City's current Policy incorporates a similar approach as adopted by Halton Region. "Double-flat rate" billing based on 2m³/day and "triple-flat rate" billing on 3m³/day has been utilized as a staged progressive approach after three consecutive estimated billings until such time as access is granted to ensure ongoing actual water meter reads and billings based on those actual reads.

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SUBJECT: Water and Wastewater / Storm Consecutive Estimated Accounts Policy Amendment (FCS18074) (City Wide) – Page 7 of 9

While the Policy with increased estimated billing has generally served as an effective incentive to resolve consecutive estimated billings, the limited situations where compliance is not achieved within reasonable time support service disconnection as a final option to resolve the issue of access and resulting ongoing estimated accounts.

A review of accounts currently on 2m³/day and 3m³/day estimated billings reflects that as of May 2018, there are approximately 130 accounts that have been on increased estimated billings for a period of time exceeding 12 months. Over the same timeframe, over \$60K in unpaid arrears have been transferred to the tax roll from 90 properties on increased estimated billings. Single residential accounts and, to a much lesser degree, commercial accounts, comprise the accounts exceeding 12 months and / or have had estimated arrears tax roll transfers. Generally, multi-residential, industrial and institutional accounts resolve issues relating to estimates of accounts on a more timely basis.

Staff proposes that service disconnection be considered for residential properties (except multi-residential) to address situations involving consecutive estimates where any of the following conditions exist:

1. Access, satisfactory to the General Manager of Public Works (or designate), is not provided to the premises or the water metering equipment for the purpose of meter reading, installation, inspection, maintenance or repair, for at least 12 consecutive calendar months;
2. Following notice from the City or its agents, an obstruction that prevents meter reading, installation, inspection, maintenance or repair was not removed by the customer to the satisfaction of the General Manager of Public Works, or its designate, for at least 12 consecutive calendar months;
3. Premise is determined to be vacant and at least three consecutive estimated invoices were issued;
4. At least two increased consecutive estimated invoices (either 2m³/day or 3m³/day) remained unpaid resulting in arrears transfer to the property tax roll.

The intent is for service disconnection to be utilized only as a last resort when the other existing means within the Policy have failed to encourage compliance from the customers. Reasonable notice of the planned shut-off will be provided to the owners and occupants of the affected premises by email or telephone messaging in addition to notice by prepaid mail required by the legislation. If there is no response to this notice, a notification will be posted on the premises in a conspicuous place.

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The intent under the Policy is to issue a notice of pending non-compliance water shut off by registered mail and if there is no response a non-compliance notification will be posted at the property. These two notification measures exceed the minimum service disconnection notification requirements as prescribed by the *Municipal Act, 2001* as noted in the Policy Implications and Legislated Requirements section of this Report.

Residential tenants would be aware of estimated water readings by the presence of meter read request door hangers that are left by AUC's meter readers when they are unable to obtain a water meter reading from the remote reading device. Additionally, the non-compliance notification postings will typically be on the premise front door at least two days prior to service disconnection.

Recommendation (b) of Report FCS18074 seeks approval of new user fees as outlined below for cost recovery related to the administration and disconnection / restoration of water service associated with service disconnection under the Policy:

	2018 Proposed Fee	HST (Y/N)	2018 including HST (if applicable)
General Administration Fees			
Non-compliance Administration Note: includes cost of registered letter	\$20.00	Y	\$22.60
Non-compliance Notification Posting Note: cost to post non-compliance letter on door	\$25.00	Y	\$28.25
Non-Compliance Water Off or On Note: Turning water off at the curb due to non-compliance with the Waterworks Bylaw. Water turned on once access is provided to address non-compliance issue(s).			
Non-compliance Water Turn Off	\$76.50	N	\$76.50
Non-compliance Water Turn On	\$76.50	N	\$76.50

It should be noted that the non-compliance fees will be charged to property owners even where there are legacy tenant-held water accounts as water accounts are transferred from tenants to owners prior to any change to 2m³/day and 3m³/day estimated billings.

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SUBJECT: Water and Wastewater / Storm Consecutive Estimated Accounts Policy Amendment (FCS18074) (City Wide) – Page 9 of 9

Service disconnection will not be utilized for multi-residential, industrial, commercial and institutional accounts due to concerns that such action would disable private fire protection systems that typically are required. Additionally, service disconnections will not be used to address consecutive estimated billings of sub-meters commonly referred to as satellite meters. With the exception of vacant properties, service disconnections would occur only between May and November.

The water service will not be reactivated until the customer permits the City or its agents, to install, inspect, maintain or repair utility property. Where conditions are found that do not allow for the utility work to be performed, the City, at its sole discretion, may turn on the water service where the customer makes arrangements within a specified timeframe to permit the work to be completed. The customer must adhere to these arrangements, failing which, the water service may again be disconnected and applicable fees will be applied.

The recommended Policy amendments should significantly reduce the risk to the City's water and wastewater / storm revenues of long-term consecutively estimated accounts as it is expected that fewer accounts will be consecutively estimated beyond two years in the future under the recommended Policy.

ALTERNATIVES FOR CONSIDERATION

N/A

ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN**Healthy and Safe Communities**

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Our People and Performance

Hamiltonians have a high level of trust and confidence in their City government.

APPENDICES AND SCHEDULES ATTACHED

Appendix "A" – City of Hamilton Water and Wastewater / Storm Estimated Accounts Policy

JS/dt



Hamilton

POLICY TITLE: Water and Wastewater Consecutive Estimated Accounts Policy

POLICY NO: PP-0009

LAST REVISION DATE: March 29, 2017

EFFECTIVE DATE: August 17, 2018

MANAGER REVIEWED: Tom Hewitson

TO BE REVIEWED: 8/1/2023

MAINTENANCE RESPONSIBILITY: Senior Policy Advisor, Financial Planning, Administration and Policy Division

I GENERAL

The Water and Wastewater Consecutive Estimated Accounts Policy details the protocol followed by the City of Hamilton ("City") and its water / wastewater billing agent, Alectra Utilities Corporation ("Alectra"), in rendering estimated accounts where actual water consumption cannot be confirmed due to City's inability to obtain access to a water meter or water metering equipment for the purpose of meter reading, installation, inspection, maintenance or repair of utility property.

II BACKGROUND

Pursuant to the Waterworks By-law R84-026 of the City of Hamilton (the "Waterworks By-law"), billing for the supply of water in the City of Hamilton is, in part, based on the consumption registered on the water metering equipment. Where no water meter has been installed, billing is based on a non-metered or flat-rate basis. The Waterworks By-law requires customers to provide access to the City to the water meter and related equipment for the purpose of meter reading, installation, inspection, maintenance or repair. Where access to the water meter and related equipment is not provided and actual water consumption cannot be obtained by the City, water consumption is billed based on estimated amounts. This Policy applies to circumstances where consecutive estimated accounts are issued due to the inability of the City or its agents to obtain access to the water meter and related equipment.

III POLICY

DEFINITIONS

Service Valve: Also commonly referred to as street valve or curb stop, service valves control the water running to a premise from the City's water main. Service valves are usually located outside the residence typically at or near the property line, either in the front, back or side of the property (for example: lawn, driveway or private sidewalk). Service valves are owned and operated by the City. However, any water lines which go from the service valve to the premises are owned, operated and maintained by the property owner.

Vacant: For the purpose of this Policy, vacant means a premise that, regardless of the presence of furnishings, is not occupied by any person for more than 90 consecutive days.

CONSECUTIVE ESTIMATED ACCOUNTS

Where access to the water meter and related equipment is not provided for the purpose of meter reading, installation, inspection or repair of utility property and actual water consumption cannot be obtained by the City, water consumption will be billed based on consecutive estimated water account protocol set out in the attached Tables.

SERVICE DISCONNECTION

If the consecutive estimated account protocol and resulting ongoing estimated accounts, do not result in the City achieving access to the water meter and related equipment, the City may disconnect (shut-off) water service to residential premises (except for multi-residential) provided any of the following conditions exist:

1. Access, satisfactory to the General Manager of Public Works, or its designate, is not provided to the premises or the water metering equipment for the purpose of meter reading, installation, inspection, maintenance or repair for at least 12 consecutive calendar months;
2. Following notice from the City or its agents, an obstruction that prevents meter reading, installation, inspection, maintenance or repair was not removed by the customer to the satisfaction of the General Manager of Public Works, or its designate, for at least 12 consecutive calendar months;
3. Premise is determined to be vacant and at least three consecutive estimated invoices were issued; or
4. At least two increased consecutive estimated invoices (either 2m³/day or 3m³/day) remain unpaid resulting in arrears transfer to the property tax roll.

Disconnections of water service will **not** occur:

- on a Friday, a weekend, a legal holiday, the day before a holiday, or on any day City administration offices are not open for business;
- between November 1 to April 30, except for vacant properties;
- for multi-residential, industrial, commercial and institutional accounts;
- for sub-meters commonly referred to as satellite meters.

Following service disconnection, the water service will not be turned back on until access, satisfactory to the General Manager of Public Works, or its designate, is provided to the water meter and related equipment. Where conditions are found that do not allow for the utility work to be performed, the City, at its sole discretion, may turn on the water service where the customer makes arrangements within a specified timeframe to permit the work to be completed. The customer must adhere to these arrangements, failing which the water service may again be disconnected, which will result in additional applicable fees.

NOTIFICATION

Notice of planned service disconnection will be provided to the owner or occupant of the affected premises by personal service or prepaid mail or by posting the notice on the premises in a conspicuous place. Depending on staff availability, the service disconnection may occur within ten (10) business days following the initial disconnection date provided on the notice.

Consecutive Estimated Water Account Protocol 1 – Single Residential

Consecutive Estimated Monthly Billing	Communication / Activities		Bill Estimate Calculation
	Alectra	Hamilton Water	
1	- Meter reader leaves meter read request door hanger for customer	- None required	- Consumption estimate based on the prior 12-month historical average usage for the account - If no history or < 2 billing periods, use 1m ³ /day
2	- Meter reader leaves meter read request door hanger for customer - Generate work order to HW to address estimates	- Receive work order from Alectra and commence process to attend site for required meter equipment repair or touchpad relocation	- Consumption estimate based on the prior 12-month historical average usage for the account - If no history or < 2 billing periods, use 1m ³ /day
3	- Meter reader leaves meter read request door hanger for customer	- None required	- Consumption estimate based on the prior 12-month historical average usage for the account - If no history or < 2 billing periods, use 1m ³ /day

**Consecutive Estimated Water Account Protocol 1 – Single Residential
(Continued)**

Consecutive Estimated Monthly Billing	Communication/Activities		Bill Estimate Calculation
	Alectra	Hamilton Water	
4	<ul style="list-style-type: none"> - Meter reader leaves meter read request door hanger for customer - Letter issued to account holder (to property owner if different from account holder) informing of access issue resulting in City exercising right to move to double flat billing. Where current estimates > 2m³/day, use 2 times historical usage. Notification provided that if issue not rectified within 30 days the City may exercise authority to triple flat rate billing 	<ul style="list-style-type: none"> - None required 	<ul style="list-style-type: none"> - Consumption estimate based on double flat rate billing (2m³/day)
5	<ul style="list-style-type: none"> - Meter reader leaves meter read request door hanger for customer 	<ul style="list-style-type: none"> - None required 	<ul style="list-style-type: none"> - Consumption estimate based on double flat rate billing (2m³/day)
6	<ul style="list-style-type: none"> - Meter reader leaves meter read request door hanger for customer 	<ul style="list-style-type: none"> - Letter issued to property owner informing of access issue and notification that City will exercise authority to triple flat rate billing 	<ul style="list-style-type: none"> - Consumption estimate based on triple flat rate billing (3m³/day)
7 to 11	<ul style="list-style-type: none"> - Meter reader leaves meter read request door hanger for customer 	<ul style="list-style-type: none"> - None required 	<ul style="list-style-type: none"> - Consumption estimate based on triple flat rate billing (3m³/day) until such time as the meter issues have resolved to the City's satisfaction with metered billings restored with actual readings enabled
12 and thereafter	<ul style="list-style-type: none"> - Meter reader leaves meter read request door hanger for customer 	<ul style="list-style-type: none"> - Shut-off in certain circumstances 	<ul style="list-style-type: none"> - Consumption estimate based on triple flat rate billing (3m³/day) until such time as the meter issues have resolved to the City's satisfaction with metered billings restored with actual readings enabled and/or shut-off

Consecutive Estimated Water Account Protocol 2 – Multi-Residential and Industrial / Commercial / Institutional

Consecutive Estimated Monthly Billing	Communication/Activities		Bill Estimate Calculation
	Alectra	Hamilton Water	
1	<ul style="list-style-type: none"> - Meter reader leaves meter read request door hanger for customer 	<ul style="list-style-type: none"> - None required 	<ul style="list-style-type: none"> - Consumption estimate based on the prior 12 average usage for the account - If no history or < 2 billing periods, use average consumption of similar customers
2	<ul style="list-style-type: none"> - Meter reader leaves meter read request door hanger for customer - Generate work order to HW to address estimates 	<ul style="list-style-type: none"> - Receive work order from Alectra and commence process to attend site for required meter equipment repair or touchpad relocation 	<ul style="list-style-type: none"> - Consumption estimate based on the prior 12-month historical average usage for the account - If no history or < 2 billing periods, use average consumption of similar customers
3	<ul style="list-style-type: none"> - Meter reader leaves meter read request door hanger for customer 	<ul style="list-style-type: none"> - None required 	<ul style="list-style-type: none"> - Consumption estimate based on the prior 12-month historical average usage for the account - If no history or < 2 billing periods, use average consumption of similar customers
4	<ul style="list-style-type: none"> - Meter reader leaves meter read request door hanger for customer - Letter issued to account holder (to property owner if different from account holder) informing of access issue resulting in City exercising right to move to double historical consumption billing. Notification that if issue not resolved within 30 days, the City may exercise authority to triple actual historical billings (if no historical available bill or if it is suspected that the historical usage is not accurate, use 2x actual consumption of similar customers) 	<ul style="list-style-type: none"> - None required 	

**Consecutive Estimated Water Account Protocol 2 – Multi-Residential and
Industrial / Commercial / Institutional
(Continued)**

Consecutive Estimated Monthly Billing	Communication/Activities		Bill Estimate Calculation
	Alectra	Hamilton Water	
5	- Meter reader leaves meter read request door hanger for customer	- None required	- Consumption based on double actual historical billings (if no historical available or if it is suspected that the historical usage is not accurate, bill 2x actual consumption of similar customers)
6	- Meter reader leaves meter read request door hanger for customer	- Letter issued to property owner informing of access issue and notification provided that City will exercise authority to triple actual historical billings (if no historical available bill or if it is suspected that the historical usage is not accurate, use 3x actual consumption of similar customers)	- Consumption based on double actual historical billings (if no historical available or if it is suspected that the historical usage is not accurate, bill 2x actual consumption of similar customers)
7 to 11	- Meter reader leaves meter read request door hanger for customer	- None required	- Consumption based on triple actual historical billings (if no historical available or if it is suspected that the historical usage is not accurate, bill 3x actual consumption of similar customers)
12 and thereafter	- Meter reader leaves meter read request door hanger for customer	- Shut-off in certain circumstances	- Consumption estimate based on triple flat rate billing (3m ³ /day) until such time as the meter issues have resolved to the City's satisfaction with metered billings restored with actual readings enabled and/or shut-off



CITY OF HAMILTON
CORPORATE SERVICES DEPARTMENT
Financial Planning, Administration and Planning Division

TO:	Chair and Members Audit, Finance and Administration Committee
COMMITTEE DATE:	August 15, 2018
SUBJECT/REPORT NO:	Fees and Charges for the Supply of Raw Water to 690 Strathearne Avenue North (FCS18049(a)) (Ward 4)
WARD(S) AFFECTED:	Ward 4
PREPARED BY:	John Savoia (905) 546-2424 Ext. 7298
SUBMITTED BY:	Brian McMullen Director, Financial Planning, Administration and Policy
SIGNATURE:	

RECOMMENDATIONS

- (a) That charges for raw water supplied to 690 Strathearne Avenue North by the City of Hamilton be imposed at the following rates, effective September 1, 2018:
- (i) metered raw water at the rate of \$0.1118 per cubic metre;
 - (ii) daily raw water fixed charges at the following rates:

Meter Size	Daily Rate
200 mm	\$ 27.20
250 mm	\$ 39.10
300 mm	\$ 57.80

- (b) That staff advises the owner of 690 Strathearne Avenue North, currently ArcelorMittal Long Products Canada, that the continued supply of raw water by the City to 690 Strathearne Avenue North is contingent upon the following conditions being met:

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SUBJECT: Fees and Charges for the Supply of Raw Water to 690 Strathearne Avenue North (FCS18049(a)) (Ward 4) - Page 2 of 9

- (i) that effective September 1, 2018, in addition to other flow-through costs and expenses described in Report FCS18049(a), the owner pays water rates set out in recommendation (a) in Report FCS18049(a) for the supply of raw water to the property;
 - (ii) that by December 23, 2018, the owner enters into a Raw Water Supply Agreement with the City of Hamilton on such terms as are set out in recommendation (c) in Report FCS18049 / LS18014;
 - (iii) that by December 23, 2018, the owner enters into an Easement Agreement with the City of Hamilton to support the existing pipeline that crosses City lands on such terms as are set out in recommendation (c) in Report FCS18049 / LS18014;
 - (iv) that the owner installs a backflow prevention device that meets City requirements to protect against any backflow conditions at its sole expense;
- (c) That the City Solicitor be authorized and directed to prepare all necessary by-laws to implement Recommendation (a) of Report FCS18049(a) which may include necessary amendments to be made to the 2018 Water and Wastewater / Storm Fees and Charges By-law 17-265 and Waterworks By-law R84-026;
- (d) That the General Manager of Finance and Corporate Services be directed to report back to the Audit, Finance and Administration Committee in January 2019 regarding the implementation of Recommendation (b) of Report FCS18049(a).

EXECUTIVE SUMMARY

The purpose of Report FCS18049(a) is to seek approval from Council to impose updated raw water charge rates to continue the supply of raw water (chlorinated non-potable water) to 690 Strathearne Avenue, currently owned by ArcelorMittal Long Products Canada (AMLPC).

In 1965, the City had entered into an agreement with the former Steel Company of Canada (Stelco) to supply chlorinated raw water from a raw water pumping station (historically known as the Stelco Pumping Station) (Raw Water Pumping Station), located at the City's Woodward Avenue Water Treatment Plant (WTP). In addition, in 1966, the same two parties entered into an easement agreement which allowed Stelco to construct, maintain and operate a watermain for the conveyance of the chlorinated raw water from the Raw Water Pumping Station to Stelco's property located at 690 Strathearne Avenue North to two Stelco facilities, #2 Rod Mill and Stelwire over City lands (Easement).

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Both the Raw Water Agreement and the Easement expired on April 26, 1985. However, the original two parties and their successors, namely the City and AMLPC, have substantively, to date, continued to act in accordance with the terms and conditions as are contained in the original Raw Water Agreement and Easement, except for certain payments required by those agreements which are not being paid to the City.

In 2004, Stelco closed the #2 Rod Mill and the mill was dismantled. Subsequently, the property was sold to the Hamilton Port Authority and the property's connection to the raw water pipeline was severed. AMLPC's 2005 purchase of Stelco's former Stelwire operation located at 690 Strathearne Avenue North resulted in AMLPC's wire plant being the sole customer of this chlorinated raw water supply from the City. This acquisition also led to AMLPC becoming the owner of the watermain connecting the Stelco Pumping Station to AMLPC's operations. AMLPC has indicated to staff that the raw water supply is an essential requirement to the viability of their wire plant in Hamilton.

Following the April 23, 2018 Report FCS18049 / LS18014, staff entered into discussions with AMLPC seeking to negotiate updated raw water supply and an Easement Agreement for the continued supply of raw water to 690 Strathearne Avenue North. Staff forwarded the draft raw water supply agreement to AMLPC on June 12, 2018 asking for comments on the agreement, if any, by no later than June 29, 2018, which deadline was subsequently extended to July 16, 2018, so to ensure that the new agreement could be finalized and the proposed raw water rate of \$0.1118/m³ implemented by no later than August 1, 2018. Staff also requested that steps be taken respecting the new Easement Agreement.

On July 19, 2018 AMLPC provided, without prejudice, correspondence to the City. Comments on the draft agreement were not provided and an agreement respecting the new raw water rate was not reached.

Recommendation (a) to Report FCS18049(a) sets to impose updated raw water supply rates to ensure Hamilton ratepayers receive a rate of return over and beyond the City's cost to provide the raw water supply to AMLPC.

Recommendation (b) to Report FCS18049(a) outlines the requirements that must be addressed by AMLPC by December 23, 2018 to ensure the continued supply of raw water by the City:

- AMLPC to enter into a Raw Water Supply Agreement;
- AMLPC to enter into an Easement Agreement to support AMLPC's existing pipeline that crosses City lands; and

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- AMLPC is required to install a backflow prevention device that meets City requirements to protect against any backflow conditions at its expense.

Alternatives for Consideration – Not Applicable

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: Based on the raw water volume supplied to AMLPC in 2017 and applying the recommended updated raw water rates, the City's Rate budget should begin to receive a net positive benefit.

Staffing: No impact to current staffing levels.

Legal: Sections 9, 10 and Part XII of the *Municipal Act, 2001*, as amended, and the Regulations thereto enable a municipality to impose fees or charges on persons for the supply of water and the use of a sewage system.

By entering into a new raw water supply agreement with AMLPC, the City will commit to continuing to provide raw chlorinated water to AMLPC, subject to the various terms and conditions contained within a new agreement.

HISTORICAL BACKGROUND

In 1965, the City had entered into an agreement with the former Stelco to supply chlorinated raw water from the Raw Water Pumping Station, located at the City's WTP. In addition, the same two parties entered into an Easement Agreement which allowed Stelco to construct, maintain and operate a watermain for the conveyance of the chlorinated raw water from the Raw Water Pumping Station to Stelco's property located at 690 Strathearne Avenue North over City lands.

Both the Raw Water Agreement and the Easement expired on April 26, 1985. However, the original two parties, and their successors, namely the City and AMLPC, have substantively, to date, continued to act in accordance with the terms and conditions as are contained in the original Raw Water Agreement and Easement, except for certain payments required by those agreements which are not being paid to the City.

Key elements of the Raw Water Supply Agreement and Easement Agreement included:

- The City constructed a water intake from Lake Ontario to its WTP located at Woodward Avenue in Hamilton.

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- Stelco, at its expense, constructed a pumping station at the WTP site for the purpose of pumping chlorinated raw water to Stelco's operations. The ownership of the Raw Water Pumping Station was transferred to City upon completion of the pumping station's construction with Stelco to pay for any future replacement / expansion of the station or for any building and equipment maintenance and repairs that are required from time to time.
- Stelco was permitted to construct and maintain, at its own expense, a watermain to convey the raw water from the Raw Water Pumping Station to Stelco's operations. This watermain is the subject of the Easement where it crossed over City lands that included an annual easement charge of \$511.50.
- Stelco agreed to pay to the City for all chlorinated raw water delivered to Stelco at a rate of \$0.01 per 1,000 gallons (\$0.0022/m³), provided that, in any event, Stelco paid annually the total of the Fixed Annual Charges of \$20,850 (as defined in the Agreement), the direct labour and material costs and the cost of electricity incurred in chlorinating and delivering such water.

Since the fourth quarter of 2004 when Stelco's #2 Rod Mill was closed and demolished, raw water demand has declined considerably. The Rod Mill property was sold to the Hamilton Port Authority and the property's connection to the raw water main was severed. AMLPC's 2005 purchase of Stelco's former Stelwire operation located at 690 Strathearne Avenue North resulted in this Mill being the sole customer of the chlorinated raw water supply from the City through the Raw Water Pumping Station. This acquisition also led to AMLPC becoming the owner of the watermain connecting the Raw Water Pumping Station to AMLPC's operations. Over the past decade, the City has raised significant concerns regarding the Raw Water Pumping Station's reliability and the associated capital maintenance requirements this facility will require to maintain its operation.

The raw water rate established in the 1965 Raw Water Supply Agreement was intended to cost recover the City's direct costs incurred to chlorinate and deliver raw water to the Raw Water Pumping Station. There are a number of cost elements that the City incurs related to the raw water supply that have not been accounted for within the raw water rate that has been charged to date, which include but are not limited to:

- Allocation of costs associated with the City's water intake and zebra mussel control infrastructure upstream of the Raw Water Pumping Station;
- Operating and maintenance costs of the raw water pipelines upstream of the Raw Water Pumping Station;
- Overhead costs associated with supplying water to the Raw Water Pumping Station;

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SUBJECT: Fees and Charges for the Supply of Raw Water to 690 Strathearne Avenue North (FCS18049(a)) (Ward 4) - Page 6 of 9

- Inflationary impacts related to the direct labour, material costs and the cost of electricity incurred in chlorinating and delivering rate water to the Raw Water Pumping Station. Note that the Consumer Price Index has increased from 1965 to 2018 by 684% with an average annual inflation increase of 3.7%;

Additionally, the City earns a rate of return from its supply of potable water to Haldimand County and the Regional Municipality of Halton and, as such, should receive a rate of return for the City raw water supplied to a commercial enterprise.

Staff has reviewed available billing records. The Fixed Annual Charges set at \$20,850 and Annual Easement Charge of \$511.50 have not been charged most likely since the Raw Water Agreement and the Easement expired on April 26, 1985. Furthermore, updated Fixed Charges and Easement Right Fees have not been charged to AMLPC.

In 2017, over one million cubic metres of chlorinated raw water was supplied by the City to AMLPC at a cost of only \$3,100. For comparison, the same volume of water at the 2017 City potable rate would equate to over \$1.5M. There exists a comparable municipal raw water supply system in Durham Region and at their 2017 raw water rate, the same volume of water would amount to nearly \$306K.

Report FCS18049(a) seeks Council's approval of updated raw water rates to ensure Hamilton ratepayers receive a rate of return over and beyond the City's cost to provide the raw water supply to AMLPC.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

Sections 9, 10 and Part XII of the *Municipal Act, 2001*, as amended and the Regulations thereto enable a municipality to impose fees or charges on persons for the supply of water and the use of a sewage system.

The Raw Water Pumping Station was constructed at Stelco's sole expense with the ownership transferred to the City upon completion of the construction. The building and equipment maintenance and repairs at the Raw Water Pumping Station have been paid by Stelco and its successor AMLPC in accordance with the terms of the now expired Agreement and will continue to be paid by AMLPC under any future proposed agreement. AMLPC also pays the cost of the chlorinated raw water delivered to 690 Strathearne Avenue North, as well as, the direct labour and material costs and the cost of electricity incurred in chlorinating and delivering such water. Recommendation (a) of Report FCS18049(a) increases the water rate payable by AMLPC to ensure that Hamilton ratepayers receive a rate of return over the City's cost to provide the raw water supply to AMLPC. Similarly, the City has presented AMLPC a new annual charge for easement rights commensurate with current market value of those rights.

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Any bonusing concerns that may arise in connection to Section 106 of the *Municipal Act, 2001*, are expected to be addressed through the implementation of Recommendations (a) and (b) of Report FCS18049(a). Should that not be the case, staff will report back to Committee for further instructions.

RELEVANT CONSULTATION

Corporate Services – Legal Services Division has been consulted in the preparation of this Report.

Public Works Department – Hamilton Water Division has been consulted and supports this Report's recommendations.

ANALYSIS AND RATIONALE FOR RECOMMENDATIONS

The City can support the continuation of the unique legacy raw water supply to AMLPC and as such, staff has been in active discussion with AMLPC with the objective of the two parties being able to enter into a raw water supply agreement by August 2018 and an easement agreement later this year. On July 19, 2018 AMLPC provided, without prejudice, correspondence to the City. Comments on the draft raw water supply agreement sent to AMLPC by the City were not provided and an agreement respecting the new raw water rate was not reached. Staff recommends that the updated raw water rates are imposed on AMLPC while discussions and negotiations with AMLPC respecting the new raw water supply and easement agreements continue.

Recommendation (a) to Report FCS18049(a) sets out updated raw water supply rates to ensure the City of Hamilton ratepayers receive a rate of return over and beyond the City's cost to provide the raw water supply to AMLPC.

The reliable supply of raw water provides AMLPC an exceptionally low-cost source for processed water. The City has the capacity to continue to provide this raw water supply within its Permit to Take Water (issued from the Ministry of Environment, Conservation and Parks) from Lake Ontario.

Staff conducted an online review and have identified that Durham Region provides a similar municipal chlorinated raw water supply. In their case, three industrial customers are serviced with two raw water pumping stations with separate distribution mains. The variable raw water rate Durham charges is reviewed annually as part of their Rate budget process and is linked to their potable water rate. Durham's 2018 raw water has been approved at \$0.301/m³ that is approximately 30% of their potable water rate. The raw water rate includes a share of the Whitby Water Treatment Plant's operating costs and overhead costs. The rate does not include capital costs as the customers pay capital costs separately from the raw water rate.

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SUBJECT: Fees and Charges for the Supply of Raw Water to 690 Strathearne Avenue North (FCS18049(a)) (Ward 4) - Page 8 of 9

To determine an updated raw water rate for 690 Strathearne Avenue North in Hamilton, staff has considered the following:

1. Electrical requirements and cost associated with the delivery of the water from Lake Ontario to the Raw Water Pumping Station (not including any electricity costs for pumping the water from the Raw Water Pumping Station to 690 Strathearne Avenue North, which continues to be a "flow-through" cost);
2. Cost of chlorination related to algae and zebra mussel control;
3. Allocation of costs associated with the City's water intake and zebra mussel control infrastructure upstream of the Raw Water Pumping Station;
4. Operating and maintenance costs of the raw water pipelines upstream of the Raw Water Pumping Station;
5. Overhead costs associated with supplying water to the Raw Water Pumping Station;
6. The Consumer Price Index has increased from 1965 to 2018 by 684%; with an average annual inflation increase of 3.7%;
7. The rates of return the City derives from its supply of potable water to Haldimand County and the Regional Municipality of Halton;
8. Durham's current approved raw water rate of \$0.301/m³, which is 30% of the potable water rate;
9. The City's 2018 potable water rate is \$1.49/m³; and
10. Linking the raw water rate to the City's potable rate with the intent the rate would increase over time as Council approves future potable water rates.

The recommended variable raw water rate of \$0.1118 per cubic metre equates to approximately 7.5% of the City's potable water rate.

For all potable water accounts, the City charges a fixed charge based on the size of the meter. Similarly, it is recommended that the City commence to charge fixed charges to AMLPC at the same rates that is charged to all water consumers.

As per Recommendation (b) of Report FCS18049(a), for the supply of raw water by the City to continue longer term, AMLPC will need to meet the following conditions by December 23, 2018:

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SUBJECT: Fees and Charges for the Supply of Raw Water to 690 Strathearne Avenue North (FCS18049(a)) (Ward 4) - Page 9 of 9

- (i) AMLPC to enter into a Raw Water Supply Agreement;
- (ii) AMLPC to enter into an Easement Agreement to support AMLPC's existing pipeline that crosses City lands;
- (iii) AMLPC is required to install a backflow prevention device that meets City requirements to protect against any backflow conditions at its expense.

Staff will report back to Council in January 2019 with respect to above.

ALTERNATIVES FOR CONSIDERATION

N/A

ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN

Economic Prosperity and Growth

Hamilton has a prosperous and diverse local economy where people have opportunities to grow and develop.

Clean and Green

Hamilton is environmentally sustainable with a healthy balance of natural and urban spaces.

APPENDICES AND SCHEDULES ATTACHED

N/A

JS/dt



CITY OF HAMILTON
HEALTHY AND SAFE COMMUNITIES DEPARTMENT
Housing Services Division

TO:	Chair and Members Audit, Finance and Administration Committee
COMMITTEE DATE:	August 15, 2018
SUBJECT/REPORT NO:	Development Charge Exemption Request from Trillium Housing (HSC18040) (City Wide) (Outstanding Business List Item)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Kirstin Maxwell (905) 546-2424 Ext. 3846
SUBMITTED BY:	Paul Johnson General Manager Healthy and Safe Communities Department
SIGNATURE:	

RECOMMENDATIONS

- (a) That the request for Development Charge exemptions for the affordable units in the Highbury and Winona Developments by Trillium Housing, be denied;
- (b) That the General Manager of the Healthy and Safe Communities Department or his designate be authorized and directed to deliver and administer a municipal Down Payment Assistance Program, with an upset limit of \$1,800,175, for eligible purchasers of the two Trillium Housing Non-Profit housing developments (Winona and Highbury), in accordance with the program guidelines, attached as Appendix "A" to Report HSC18040;
- (c) That the General Manager of the Healthy and Safe Communities Department or his designate be authorized to approve and execute any agreements and ancillary documentation, in a form satisfactory to the City Solicitor, that are required to deliver and administer a municipal Down Payment Assistance Program for eligible purchasers of the two Trillium Housing Non-Profit housing developments (Winona and Highbury);
- (d) That the annual interest cost of \$61,000 (when the program is at capacity) of providing the Trillium Down Payment Assistance Program in accordance with the program guidelines, be absorbed within the Housing Services Division existing operating budget;

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**SUBJECT: Development Charge Exemption Request from Trillium Housing
(HSC18040) (City Wide) - Page 2 of 8**

- (e) That the initial, one-time cost of administration of the Trillium Housing Down Payment Assistance Program for the two Trillium Housing Non-Profit housing developments (Winona and Highbury), in the amount of \$100,000 be funded through the Municipal Down Payment Assistance Program Reserve (#112009); and,
- (e) That the matter respecting “Trillium Housing Non-Profit” be identified as complete and removed from the Audit, Finance and Administration Committee Outstanding Business List.

EXECUTIVE SUMMARY

Trillium Housing Non-Profit (Trillium) has requested the City’s support for its two affordable home ownership projects in Hamilton, primarily by providing development charge (DC) exemptions. Trillium has purchased two sites under a provincial program that repurposes surplus government land for community benefit. Trillium provides the Trillium Mortgage, which is a no payment, share-appreciation second mortgage, to income eligible purchasers to bridge the gap between the amounts purchasers can afford and the price of the houses.

The two Hamilton Trillium projects do not meet the DC By-law requirements for the affordable housing DC exemption, therefore, staff recommend denying the request for a DC exemption.

Trillium put forward an alternative proposal that the City invest in the Trillium Mortgages provided to qualifying purchasers through a shared appreciation loan. Staff is not recommending that the City provide Trillium with a shared appreciation loan, primarily because there is no adequate legal mechanism to secure the loan and recoup the funds in the event of a default.

Staff is recommending that the City administer a specific down payment assistance program (DPAP) for qualifying Trillium purchasers with an upset program limit of \$1.8 M and adhering to the program guidelines detailed in Appendix “A” to Report HSC18040. Trillium’s affordable home ownership model meets many of the City’s Housing Policy objectives and a DPAP is not likely to be a significant cost the City over the long run.

An average market appreciation of 3.5% to 5% would result in the City realizing between a minimal net loss of \$26,000 and a net gain of \$700,000 over a 15-year period after considering the cost to the City associated with loaning the funds.

Alternatives for Consideration – None

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**SUBJECT: Development Charge Exemption Request from Trillium Housing
(HSC18040) (City Wide) - Page 3 of 8**

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: The total loan amount could be set at any amount but staff recommend an investment of \$1.8 M which is equal to the City DC amount for each affordable unit, which Trillium has estimated as sufficient to provide approximately 26 additional affordable units (approximately \$70,000 per unit).

The financial impact over the life of the recommended program is dependent on the performance of the real estate market. Consistent with the City's external loan guidelines, staff has estimated interest costs based on the City's cost of borrowing. Since the term is dependent on when the initial purchaser re-sells the unit and could be one year or 20+ years, staff has used the 15-year rate as an approximation. The August 2018 15-year cost of borrowing is 3.31%. The City's external loan guidelines require a 0.25% administrative fee which brings the interest rate to 3.56%. For comparison, the current RBC prime rate is 3.70%.

An average market appreciation of 3.5% to 5% would result in the City realizing between a minimal net loss of \$26,000 and a net gain of \$700,000 over a 15-year period after considering the cost to the City associated with loaning the funds. Capital depreciation, which would result in a larger net loss, would be possible over the short term, but based on historical performance of the real estate market it is not likely over the long term. For a number of reasons, the 7% Canada-wide capital appreciation of the last 10 years should not be expected to continue. Thus, the 3.5% and 5% scenarios are the most appropriate scenarios to consider in the model. This is a moderately conservative approach.

The Housing Services Division would need to cover the costs associated with loaning the funds through the tax operating budget, estimated at an annual cost of \$61,000 when the program is at capacity.

In addition, there will be initial administrative costs for the City and Trillium of \$100,000 that will be funded through the Home Start Program Reserve (#112009), which would leave a balance in the reserve of \$266,292.

Staffing: There are no staffing implications associated with Report HSC18040. A DPAP for Trillium's qualifying purchasers could be administered with the existing staff complement of the Housing Services Division and Legal Services.

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Legal: Legal Services staff would need to be involved in the execution of any the loan agreements with the purchasers as well as administration of the DPAP.

HISTORICAL BACKGROUND

Trillium and the Housing Services Division have been in discussions regarding the Trillium affordable home ownership model and Trillium's request for DC exemptions for some time. On February 2, 2018, after consulting with Legal Services staff, Housing Services Division staff informed Trillium that their two townhouse development projects do not qualify for DC exemptions under the City's DC By-law 14-153.

On May 17, 2018, Trillium addressed the Audit, Finance and Administration Committee, through item 6.2, requesting the City's support for housing affordability at Trillium's two affordable home ownership projects in Hamilton, primarily by providing DC exemptions.

On May 23, 2018, Council directed staff to "to report back to the Audit, Finance & Administration Committee by June 25 as to whether the City has the capacity to assist Trillium with Development Charges reductions."

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

By-law No. 14-153, Municipal Development Charges

The staff recommendation is consistent with the existing DC By-law 14-153.

The following are the sections of the DC By-law 14-153 pertaining to affordable housing:

1. (c) "affordable housing project" means a development or redevelopment that provides housing and incidental facilities primarily for persons of low and moderate income.

21. Notwithstanding any other provision of this By-law, the following types of development are exempted from development charges under this By-law, in the manner and to the extent set out below. Unless otherwise specified herein, the said exemption is equivalent to one hundred percent (100%) of the development charges otherwise payable under this By-law;

(f) an affordable housing project that: (A) either has been approved to receive funding from the Government of Canada or the Province of Ontario (including their Crown corporations) under an affordable housing program or has been approved by the City of Hamilton or the CityHousing Hamilton Corporation through an affordable housing program; and (B) such affordable housing project is not eligible for funding for development charge liabilities from the Government of Canada or the Province of Ontario (including their Crown corporations).

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Provincial Policy Statement, Urban Hamilton Official Plan & Housing and Homelessness Action Plan

The definition of low and moderate income in the context of affordable housing is consistent among the Provincial Policy Statement, Urban Hamilton Official Plan and Housing and Homelessness Action Plan, meaning gross household income at or below the 60th income percentile for the City of Hamilton. The current 60th income percentile is \$81,300.

Urban Hamilton Official Plan

The Urban Hamilton Official Plan sets an annual target of 1291 “new ownership housing affordable to low & moderate income households” to 2031. The two Trillium projects will contribute approximately 65 affordable units, the units supported by second mortgages, towards meeting this target.

Housing and Homelessness Action Plan

The Housing and Homelessness Action Plan (Report CES11017(c)), approved by Council in December 2013, is a decision making framework for the full continuum of housing and homelessness services for the Hamilton community. The housing continuum includes affordable home ownership. The Action Plan supports incentives for new affordable housing and promotes the supply of affordable ownership housing:

Strategy 1.2

Explore the potential for new incentives and funding programs and expand and promote more broadly existing City incentive programs to increase the supply of affordable housing (e.g., capital grants and loans, tax deferrals, waived development and other charges, etc.).

Strategy 2.1a)

Encourage mixed housing and mixed income development in all urban neighbourhoods by: increasing opportunities for rental, social and affordable housing in areas that currently offer limited opportunities.

Strategy 2.3

Increase homeownership opportunities for renters, including social housing tenants (e.g., down payment assistance programs, rent-to-own initiatives, and education on purchase process, etc.).

RELEVANT CONSULTATION

Legal Services Division was consulted on the interpretation of By-law 14-153 the City's 2014 Development Charges By-law and the legal implications of the different options for

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supporting Trillium. Legal's comments informed the recommendations and were integrated into this report. Staff from the Financial, Planning, Administration and Policy Division reviewed and contributed to this report.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

Trillium Housing Affordable Ownership Housing Model

With the rapid increase in housing prices over recent years, some low and moderate income earners may require some type of subsidy or financial support to purchase and manage the ongoing costs of a home.

There is a lack of availability of ground-related affordable ownership homes in Hamilton, either newly built or resale (CMHC Industry Roundtable 2018). In June 2018, the CMHC average price for a newly completed single detached home in Hamilton was \$531,907 and the average resale price of all types of homes was \$509,639. A home of \$509,639 would require a household income of approximately \$110,000 to afford, making it out of reach for a significant proportion of the population.

In the Trillium affordable home ownership model, to enable those with low to moderate incomes to afford the homes, Trillium and their social impact investors provide no payment, share-appreciation second mortgages to the purchasers whose incomes qualify for the Trillium Mortgage. The Trillium Mortgage reduces the amount of first mortgage that the household must obtain from a financial institution, thus reducing the monthly mortgage payment amounts to a level the household can afford. The amounts of the Trillium Mortgages are based on a complete assessment of each family's housing need and financial situation. When the homes are re-sold, Trillium and their investors receive the principal plus a relative portion of any capital appreciation.

Development Charges By-law No. 14-153

Trillium's request to the City is for DC relief for roughly one half of the units in their two projects, approximately 65, which equates to \$1,800,175. Under DC By-law 14-153 a project must meet both the definition of "affordable housing project" and other criteria to qualify for a development charge exemption. A project must be "primarily for persons of low and moderate income." In the legal context "primarily" means only a very small percentage of the overall development should be occupied by persons who are not of low and moderate income. Approximately half of each Trillium project is expected to be sold to households of low and moderate income if Trillium receives support from the City equal to the DCs on the same number of units. As this does not meet the "primarily" threshold, the Trillium projects do not meet the first DC By-law criteria. The DC By-law refers only to projects and does not allow for individual units to be treated independently.

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Since the Trillium projects do not meet the definition of "affordable housing project" it is not necessary to consider the other DC By-law criteria related to the affordable housing exemption. Further, there is no wording in the DC By-law that would enable DC reductions rather than full exemptions.

Through Trillium's May 17, 2018 presentation to the Audit, Finance and Administration Committee, Trillium requested that Council consider viewing each project as two separate projects and provide support only to the units that will be sold according to the affordable model. The DC By-law does not provide for this interpretation. Trillium is a non-profit organization and under the *Municipal Act, Section 106*, the bonusing provisions do not apply. City staff does not support a one-off exemption due to the levy impact and inability to ensure that funds are reinvested into Hamilton after the eventual re-sale of the homes.

Provision of a Repayable City Loan to Trillium

At the May 28, 2018 meeting, Trillium put forward an alternative proposal that the City invest in the Trillium Mortgages provided to qualifying purchasers, similar to the amount of the DC exemption, in the amount of \$1.8 M. As the Trillium Mortgages are repayable at the time a home is re-sold, the City would, at an undetermined future date, receive the principal amount of the investment and potentially earn a return through a share in any capital appreciation of the home.

Staff does not recommend that the City provide Trillium with a shared appreciation loan, primarily because there is no adequate legal mechanism to secure the loan and recoup the funds in the event of a default. The option of a trust agreement with Trillium was explored by Legal Services staff, but was determined not to provide sufficient security. Any other type of loan provided directly to Trillium, such as a simple term loan, has the same limitations. Only loans to individual purchasers that can be registered on title of the homes over the length of the loan are secure and are of little risk to the City.

Down Payment Assistance Program for Trillium

Instead of the shared appreciation loan that Trillium suggested, staff is recommending that the City develop and administer a down payment assistance program (DPAP) specifically for qualifying Trillium purchasers. This approach is consistent with City practice in administering the DPAP.

A municipal DPAP for qualifying Trillium purchasers could provide financial assistance to Trillium purchasers while minimizing the financial risk to the City. The program will tie up City funds and will result in annual interest impacts to be funded by the City's Housing Services Division. The early years of the program will have anticipated costs while in the later years of the program, once the units start being re-sold, the City's Housing Services Division will realize annual net interest revenue.

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A DPAP provides a down payment loan to purchasers who meet income thresholds to purchase homes with a maximum purchase price. In this instance, to be consistent with the Trillium Mortgage, the down payment assistance is in the form of a 25-year no payment but fully repayable loan. After 25 years the loan is repayable, along with a relative share of the capital appreciation of the home. If the program participant no longer meets the program requirements prior to 25 years (for example, selling the home, defaulting of the mortgage, no longer using the home as their principal residence, or renting the home to another occupant), the loan is repaid at that time to the City along with a percentage of the capital gains.

DPAP loans are secured by being registered on title to each property. In the event of a default there is equity in the home to repay any other mortgages and the City's mortgage. The Trillium DPAP would be administered in accordance with the program guidelines.

The advantages of this approach are that Trillium will be able to provide larger second mortgages to those with lower incomes, and provide Trillium Mortgages to a greater number of its purchasers (approximately 26 for an investment of \$1.8 M), reducing the amount of first mortgage purchasers need thereby creating affordability, and that it secures the City's funds.

ALTERNATIVES FOR CONSIDERATION

None

ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN**Healthy and Safe Communities**

Hamilton is a safe and supportive city where people are active, healthy, and have a high quality of life.

APPENDICES AND SCHEDULES ATTACHED

Appendix A to Report HSC18040 – Program Guidelines for Trillium Down Payment Assistance Program

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Hamilton Trillium Down Payment Assistance Program Guidelines (2018)

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Background

The Housing and Homelessness Action Plan includes strategies that ensure affordability and a range of housing options for low to moderate income households in Hamilton. Action Plan Strategy 2.3 recommends down payment assistance programs to increase homeownership opportunities for renters, enhancing affordability for households with financial barriers to homeownership.

Recent federal legislation aimed at cooling the housing market has made it more difficult to qualify for a mortgage by establishing a higher interest rate threshold for mortgage approval. Borrowers must now pass a stress test when prequalifying for a mortgage by qualifying for a 2% higher interest rate than the current interest rate. The stress test is to ensure that purchasers will still be able to afford their mortgage payments if interest rates increase at renewal time. This test also means borrowers will qualify for less financing and there will be fewer low-moderate income earners qualifying for a mortgage.

These challenges, as well as current market indicators, were considered in the development of the 2018 Trillium Down Payment Assistance Program (TDPAP), including eligibility criteria. The new criteria reflect the current housing market.

Program Description

The Trillium Down Payment Assistance Program provides down payment assistance to households currently meeting their rent and shelter costs but struggling to accumulate the down payment necessary to purchase a home.

Program Benefits

There are benefits that result from homeownership not only for the individual household, but for the broader community, including:

1. Rental housing units are made available for other households in need of rental housing as a result of households moving into homeownership;
2. Enables households to build assets and personal wealth; and,
3. Increases the demand for lower cost ownership housing options by increasing the pool of potential first-time homebuyers with moderate incomes.

Program Administration

Trillium Housing will administer the TDPAP on behalf of the City of Hamilton in accordance with the Program Guidelines.

Eligibility Criteria

The Applicant(s):

1. must be over the age of 18
2. must not currently own a home or property
3. must be a legal resident of Canada and intend to have this home as their one and only residence
4. must be pre-approved for a mortgage from a Canada Mortgage and Housing Corporation (CMHC) approved lender
5. must not be in a spousal relationship (including a same-sex spousal relationship) with a person that has any form of interest in ownership of a property

Home Type on Property:

- The Property being purchased may only contain a single detached dwelling, semi-detached dwelling, apartment condominium dwelling unit, townhouse dwelling or row house dwelling. Mobile homes and co-op units are not eligible dwellings for this program.

Purchase Price

The purchase price of the Property must not exceed \$400,000 or such other amount as determined by the General Manager, Healthy and Safe Communities Department. This home price threshold is to be reviewed every three (3) years by the Investment in Affordable Housing Program Manager, Housing Services Division or earlier, and the guidelines updated accordingly and approved by the General Manager, Healthy and Safe Communities Department.

Maximum Household Income:

The maximum household income will be \$81,300, or the current Investment in Affordable Housing Program income threshold. This income threshold is to be reviewed every three (3) years or earlier by the Investment in Affordable Housing Program Manager, Housing Services Division, if the housing market changes significantly, with the guidelines updated accordingly and approved by the General Manager, Healthy and Safe Communities Department.

Loan Conditions

All applicants will submit a completed TDPAP application form, identification information, income and financial documents in a format acceptable to the City in its absolute discretion, and any other documentation or evidence the City may require, to evaluate the loan application.

All applicants receiving approval for a Trillium down payment assistance forgivable loan under the TDPAP shall be required to enter into a Loan Agreement with the City with provisions including but not limited to the terms and conditions set out herein.

The down payment is in the form of a 25-year forgivable loan with the maximum loan amount being determined on a per purchaser basis by Trillium Housing's review of each purchaser's financial situation.

The City's loan must be secured by a mortgage registered on the title of the Property being purchased which can only be lesser in priority to a mortgage securing the primary financing of the purchase of the Property and a Trillium Mortgage.

On the date of closing, the City of Hamilton will provide a cheque for the borrower, to the borrower's lawyer. Additionally, the City of Hamilton, Legal Services Division will require an Undertaking (prepared by the City and sent to the borrower's lawyer for signature) confirming that certain documents will be provided to the City within thirty (30) days of closing. These documents will include, but may not be limited to, the following:

1. an opinion letter regarding title (please note that title insurance is not accepted in lieu of an opinion letter),
2. confirmation of a valid and enforceable third Charge/Mortgage,
3. a copy of the Status Certificate issued by a Condominium Corporation disclosing that there are no arrears or orders as may affect the Unit (if applicable),
4. an Acknowledgment re: Receipt of Standard Charge Terms,
5. a Declaration that the property will be owner occupied and used as a single-family dwelling,
6. photocopies of two (2) pieces of identification for each Borrower, and
7. a copy of the registered Transfer/Deed of Land, first Charge/Mortgage, and second Charge/Mortgage being the Trillium Mortgage.

If the program participants no longer meet all program requirements, excepting the maximum home price and income level, or when 25 years have elapsed, the loan is repaid to the City of Hamilton, Housing Services Division along with the same proportion of any capital gains as the down payment assistance was of the original purchase price. This repayment requirement is outlined in the agreement between the City of Hamilton and the homeowner.

Conditions for Repayment

The original down payment assistance loan amount plus the same proportion of any capital gains as the down payment assistance was of the original purchase price must be repaid to the City of Hamilton, Housing Services Division if the following situations occur while the loan is outstanding:

1. There is a disposition of the Property including but not limited to a sale, assignment, transfer, conveyance, lease, license, any indebtedness of the loan recipient secured by a mortgage registered on title to the Property other than the mortgage whose purposes was to secure the purchase of the Property, registration of a Charge or other transaction or disposition of any nature or kind whatsoever in respect of the Property or of any right, title or interest in or to the Property;
2. The Property or a portion thereof is rented to another person;
3. The loan recipient is in breach or default of any agreement or security in respect of any other financing secured on the Property;
4. The unit is no longer the sole and principal residence of the loan recipient;
5. The loan recipient becomes bankrupt or insolvent;
6. The loan recipient misrepresented their eligibility for the program;
7. The loan recipient used the proceeds of the loan for a purpose other than the acquisition of the unit;
8. In the case of the death of both debtors named on the Agreement, only the principal amount of the loan must be repaid by the estate;
9. Change in spousal relationship:
 - a) If the loan recipient(s) divorces or their spousal relationship is terminated. However, the General Manager, Healthy and Safe Communities Department, at his or her sole, absolute and unfettered discretion, may determine whether repayment is required, based on considerations including, but not limited to, whether the loan is at risk, or any potential for undue hardship for loan recipient(s).
 - b) A new marriage or spousal relationship of the loan recipient. If the new partner does not want to be added to the title of the home, it is not necessary to sign an appending agreement. If the new spouse or partner wishes to be added to the title of the home, the newly formed household must meet the eligibility criteria prior to signing an amending loan agreement. If the newly formed household does not meet the eligibility criteria, the loan may be recalled at the discretion of the General Manager, Healthy and Safe Communities Department. (This may arise if the second spouse/partner is required to be on title of the home for the purposes of renewing a mortgage or refinancing);
10. Home Insurance Cancellation / Expiry: The borrower must have home insurance in good standing;
11. Municipal taxes must be in good standing;
12. Postponements: As a condition of advancing funds, institutional lenders will require that the City of Hamilton agree to postpone the current mortgage and remain in third position. In the event that equity is being removed from the property, the City may postpone its mortgage to third place, provided the Investment in Affordable Housing Program Manager performs the due diligence to ensure there is sufficient equity in the home to cover the aggregate of the first mortgage, the Trillium Mortgage, and the down payment assistance loan; and,
13. Property standards orders to comply: If there is, as determined by the City in its sole, absolute, and unfettered discretion, a violation of any law in respect of the Property, including but not limited to the Ontario Fire Code, Building Code, any City zoning by-law, and any City property standards by-law, the down payment assistance loan will be recalled. However, the General Manager, Healthy and Safe Communities Department may in his sole, absolute and unfettered discretion waive this repayment requirement.

Documentation Required for Records

The Housing Services Division is responsible for retaining the following documents over the life of the program:

Eligibility information:

- The signed application form, including a declaration that all information is accurate
- The notice of assessment for all members of the household
- Copies of photo identification
- Unit eligibility information and home inspection

Loan information:

- Agreements of Purchase and Sale
- Loan agreement and independent legal counsel documentation
- Mortgage registration documentation
- Title search

Payment documents and default actions:

- Records of all payments and defaults
- Confirmation of compliance with the terms of the Loan Agreement (e.g., letter confirming that the unit remains the sole and principal residence of the eligible purchaser)
- Record of any defaults

Additional Program Terms

Approval of the loan application is at the absolute discretion of the City and subject to the availability of funds.

The City's loan must be registered as the third mortgage after registration of any mortgage securing the primary financing (first mortgage), and the Trillium Mortgage. A household may not have a guarantor on title, nor may a household have a co-signer on title that will not be living in the home. If a household requires additional financing, that mortgage will be registered as the fourth mortgage, after the City's loan.

The Trillium Down Payment Assistance Program cannot be stacked with any other government down payment assistance programs but households may utilize other affordable housing programs such as renovation programs.