CITY OF HAMILTON

CORPORATE SERVICES DEPARTMENT
Financial Planning & Policy Division

TO: Mayor and Members General Issues Committee	**WARD(S) AFFECTED:** CITY WIDE
COMMITTEE DATE: September 19, 2012	
SUBJECT/REPORT NO: Cell Tower Lease/Licence Agreements: Revenue Policy (FCS12063) (City Wide) (Outstanding Business List Item)	
SUBMITTED BY: Roberto Rossini General Manager Finance & Corporate Services Department **SIGNATURE:**	**PREPARED BY:** Tom Hewitson 905-546-2424 ext 4159 Maria Di Santo 905-546-2424 ext 6247

RECOMMENDATION

(a) That the annual net proceeds of all cell tower licences/leases on City of Hamilton property (excluding Boards & Agencies and cell towers on the Right of Way) be credited to the respective Ward Special Capital Reserve Fund (wards 1-8) or the Former Area Municipal Capital Reserve Fund;

(b) That Appendix A to the Telecommunication Tower and Antenna Protocol, entitled "Procedure for the Installation of Broadcasting Communication Facilities on City of Hamilton Properties", be amended to reflect recommendation (a) above;

(c) That the subject matter be identified as completed and removed from the General Issues Committee Outstanding Business List.

EXECUTIVE SUMMARY

This report is provided in response to the General Issues Committee Outstanding Business List Item which states; ***"On a motion, staff was directed to report back showing what the revenue policy is in relation to cell towers."*** (November, 2011).

In 2001, City Council approved that revenues from cell tower licences/leases on City of Hamilton property be credited to the department which is responsible for the City facility on which the cell tower is located (known as the "host" department). Up until 2011, such revenues were directed to the host department in adherence to this 2001 procedure. However, in mid-2011, Council amended the staff recommendation to direct revenues from the cell tower on the Morgan Firestone Arena from the Recreation Division (being the "host" department) to the Ancaster capital reserve account. Since this amendment, all revenues from new leases / lease renewals have been directed to the respective ward / former area municipal capital reserve fund. As identified in the table below, only one remaining lease, whose term has not yet expired since this change in practice, is not directed to the respective ward / former area municipal capital reserve fund.

Location	Lease / Licensee	Term	Annual Rent	Revenue Credited to..	Status
415 Arvin Ave, Stoney Creek (Fire Station #15: Fruitland)	Rogers + Bell	Jan 1, 2009 - Dec 31, 2013	$ 26,600	PW - Facilities (Civic Properties Rented)	Current active lease/licence
00 Suter Cres, Dundas (Water Tower)	Rogers	Jan 1, 2012 - Dec 31, 2016	$ 25,000	Dundas Capital Reserve Account	Current active lease/licence
75 Balsam N, Hamilton (Brian Timmins)	Bell	Jan 1, 2012 - Oct 31, 2012	$ 15,000	Ward 3 Special Capital Reserve Account	Current active lease/licence
385 Jerseyville Rd, Ancaster (Morgan Firestone Arena)	Rogers	Jan 1, 2012 - Dec 31, 2031	$ 26,000	Ancaster Capital Reserve Account	Current active lease/licence
00 Suter Cres, Dundas (Water Tower)	Bell	Sept 1, 2012 - Aug 31, 2017	$ 25,000	Dundas Capital Reserve Account	Council approved, lease / licence not yet executed
00 Suter Cres, Dundas (Water Tower)	Public Mobile	Sept 1, 2012 - Aug 31, 2017	$ 25,000	Dundas Capital Reserve Account	Council approved, lease / licence not yet executed
70 Olympic Dr, Dundas (Dundas Olympic Arena)	Bell	Sept 1, 2012 - Aug 31, 2017	$ 25,000	Dundas Capital Reserve Account	Council approved, lease / licence not yet executed
115 Cole St, Waterdown (Water Tower)	Bell	Sept 1, 2012 - Aug 31, 2017	$ 25,000	Flamborough Capital Reserve Account	Council approved, lease / licence not yet executed
Scott Park (temporary replacement for Brian Timmins)	Bell + Public Mobile	Oct 1, 2012 - Apr 30, 2014	$ 35,000	Ward 3 Special Capital Reserve Account	Lease negotiated, need Council approval
West side of Van Wagners Beach Rd	Wind Mobile	Sept 1, 2012 - Aug 31, 2032	$ 25,000	Ward 5 Special Capital Reserve Account	Lease negotiated, need Council approval
TOTAL*			**$ 237,600**		

* excludes Brian Timmins, as being temporarily replaced by Scott Park location

Based on the recommendation within this report, once the lease at the Fruitland fire station expires (December, 2013), the new lease revenue will be directed to the Stoney Creek capital reserve fund. This would be consistent with the remaining licenses/ leases and would have a negative impact of $26,600 on the operating tax levy in 2014.

These agreements stipulate that, in relation to the cell tower, "*the tenant will be responsible for paying all operating costs, utilities and property taxes, in addition to the rent*". If any incidental costs incurred by the host department are not recovered from the leasee / licensee, they should be funded from the annual rent.

An alternative to the allocation to the ward / former area municipal capital reserves would be to revert back to the past practice of recognizing the revenue within the operating department budget. This would have the affect of reducing the tax operating levy requirement by over $110,000 per year and the rate operating levy requirement (for the leases on the water towers) by $100,000 per year.

Note that CityHousing Hamilton and HECFI also have licenses/ leases for cell towers on their respective properties. The recommendation in this report excludes these properties, as well as cell towers on the City's Right of Way.

Cell towers on the City's Right of Way will be excluded from this policy as potential revenues from towers on poles and streetlights would go back to fund increases in energy and replacement costs. Public Works staff have been reviewing options of deriving revenue from streetlights. There is revenue potential, not yet realized, in the use of the streetlight system to accommodate up to 150 towers needed over the next few years within the municipal road right of way. These sites would be charged annual rent payments to be negotiated at market values which are being developed currently on a national level. With an annual estimated rent payment of $10,000 per tower, this could equate to potential revenues of $1.5 million annually. This revenue would go back into the street lighting operations and can be used to eliminate the program's current annual reliance of $500,000 from the energy reserve and also offset the funding requirement for any potential large scale LED streetlight retrofit.

Alternatives for Consideration – See Page 6

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

Financial: There is a minimal negative financial impact of $26,600 to the tax operating levy if Council approves the recommendations in this report and directs all revenues to the ward / former area municipal capital reserve funds. As the recommendations in this report simply ratify what has been the practice since 2011, this financial impact is only as a result of one license/lease (415 Arvin Ave) which is the only one not currently being directed to the respective ward / former area municipal capital reserve fund. This financial impact would not occur until 2014 (when the lease is up for renewal).

Since 2011, all new / renewal rents have been set at $25,000 per year and indexed to increase by 2.5% annually. This is significantly higher than the rents charged previously of about $10,000 - $15,000 per year. Previously nothing was earned from any additional carriers that co-shared space. This too has changed to now require 1/3 rent (or $9,000) per year from any additional carriers that co-shares a tower. Commencing in 2012, the City now also requires that carriers on new leases pay annually in advance (previously paid monthly). As such, the full annual rent payment, rather than the incremental monthly amount, is available for use in the ward / former area municipal capital reserve accounts.

Real Estate staff is starting to negotiate higher rents as new cell tower proposals are received.

Staffing: N/A

Legal: N/A

HISTORICAL BACKGROUND (Chronology of events)

In 2001, City Council approved “Procedure for the Installation of Broadcasting Communication Facilities on City of Hamilton Properties” (CS01097). This procedure states that “*the annual fee and administration fee to be credited to the “Host” department*”. The “Host” department is defined in the procedure as “*the department under who’s jurisdiction the site falls under*”. The procedure also requires agreement from the “Host” department for providing space for the tower or antenna. The “Host” department can also state any conditions it may have before the tower can be built.

Subsequently, a “Telecommunication Tower and Antenna Protocol” (PED09026) was approved by Council in 2009. This protocol did not include any reference to revenues, however included the 2001 document as an appendix, stating that “*Any request to install a telecommunication facility on City-owned lands shall be reviewed in accordance with the Procedure for the Installation of Broadcasting Communication Facilities on City of Hamilton Properties (2001), attached as Appendix “A” to this Protocol.*” (Item 1.2.1 – Site Selection #7 of Protocol). Although the Protocol has been amended several times since its approval in 2009, there has been no change to the section as it relates to revenues.

Prior to 2011, revenues were directed to the host department in adherence to this 2001 procedure. However, since 2011, the revenues from all new or renewed licenses/leases are being directed to the respective ward / former area municipal capital reserve account. As such, staff have determined that revenues from only one existing lease (which commenced in 2009) is not being directed to the respective ward / former area municipal capital reserve account.

In order to adhere to the recommendations within this report, the wording in Appendix "A" to the Protocol would need to be amended from "*the annual fee and administrative fee to be credited to the 'Host' department" to "the annual fee to be credited to the respective Ward Special Capital Reserve Fund (wards 1-8) or the Former Area Municipal Capital Reserve Fund and the administrative fee to be credited to the 'Host' department".* The allocation of the administrative fee ($750) is currently being reviewed by staff.

POLICY IMPLICATIONS

This report recommends amendments to Appendix A of the Telecommunication Tower and Antenna Protocol, entitled "Procedure for the Installation of Broadcasting Communication Facilities on City of Hamilton Properties". The amendment would reflect revenues from cell tower licenses/leases being credited to the respective ward / former area municipal capital reserve fund rather than the "host" department. The administrative fee of $750, which only pertains to the initial lease/licence agreement, should continue to be credited to the "host" department. As mentioned previously, the allocation of this administration fee is currently under review.

The recommendations in this report exclude property pertaining to Boards & Agencies and on the City's Right of Way.

RELEVANT CONSULTATION

Consultation with staff from Real Estate, Public Works and the Finance & Administration group was conducted in the preparation of this report.

ANALYSIS / RATIONALE FOR RECOMMENDATION

(include Performance Measurement/Benchmarking Data, if applicable)

The recommendation in this report simply formalizes / ratifies the current practice. It ensures that the revenues from cell tower licenses / leases go to benefit the ward / former area municipality in which these towers are located.

ALTERNATIVES FOR CONSIDERATION

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

Alternatively, Council can approve to maintain the existing "Procedure for the Installation of Broadcasting Communication Facilities on City of Hamilton Properties". This, however, would require that the revenues from the existing licences / leases no longer be credited to the respective ward / former area municipal capital reserve fund, but rather to the department which is responsible for the City facility on which the cell tower is located (known as the "host" department). In essence, this would simply re-instate the current procedure as approved in 2001. The impact would result in a reduction to the tax levy requirement by about $110,000 per year and the rate levy requirement by $100,000 per year.

CORPORATE STRATEGIC PLAN (Linkage to Desired End Results)

Focus Areas: 1. Skilled, Innovative and Respectful Organization, 2. Financial Sustainability, 3. Intergovernmental Relationships, 4. Growing Our Economy, 5. Social Development, 6. Environmental Stewardship, 7. Healthy Community

Skilled, Innovative & Respectful Organization

- Council and SMT are recognized for their leadership and integrity

Financial Sustainability

- Financially Sustainable City by 2020

APPENDICES / SCHEDULES

N/A