TO: Chair and Members  
Economic Development and Planning Committee  
WARD(S) AFFECTED: Ward 2

COMMITTEE DATE: September 7, 2010

SUBJECT/REPORT NO:  
Declaration of Surplus Lands and Sale of Easement to Union Gas Limited – Part of Jarvis Street and Car Park 8 (PED10203) (Ward 2)

SUBMITTED BY:  
Tim McCabe  
General Manager  
Planning and Economic Development

PREPARED BY:  
Helene Marcotte  
905-546-2424 Ext. 7021

SIGNATURE:

RECOMMENDATION:

(a) That the subject lands, described as Part 1 on Plan 62R-18680, being part of PIN 17168-0190(R), and forming part of Jarvis Street closed by By-Law 69-17, having an area of 141.6 square metres (1,524 square feet) as shown on Appendix “A” attached to Report PED10203, be declared surplus to the requirements of the City of Hamilton in accordance with Procedural By-law 04-299;

(b) That an Offer to Purchase (Easement) executed by Union Gas Limited on July 5, 2010 and scheduled to close on or before October 20, 2010 for the land described in Recommendation (a) be approved and completed at the sale price of $10,325.00;
(c) That the required deposit cheque in the amount of $1,032.00, being 10% of the purchase price, be held by the General Manager of Finance pending acceptance of this transaction;

(d) That the sale price of $10,325.00 does not include the Harmonized Sales Tax; should HST be applicable and collected by the City, that the amount be credited to Account No. 22828 009000 (HST Payable);

(e) That the sum of $2,578.00 for Real Estate Administration fees in the amount $1,500 and appraisal fees of $1,078 be funded from the sale amount and credited to Account No. 45408-3560150200 (Capital - Property Purchases and Sales);

(f) That any disbursements, legal costs and expenditures of Legal Services be charged to 52425-490405 and then funded from the Parking Capital Reserve (108021);

(g) That the net proceeds from the sale be credited to Land Sales Account 47702-490405 and subsequently transferred to the Parking Capital Reserve (108021);

(h) That the Mayor and Municipal Clerk be authorized and directed to execute and issue a Certificate of Compliance in the form prescribed pursuant to Section 268 of the Municipal Act, incorporating the following:

(i) That as required by Section 3 (a) of By-Law 04-299, the subject lands be declared surplus by inclusion in this report to City Council;

(ii) An internal appraisal of the fair market value of the real property intended to be sold was completed on May 20, 2010 and the sale price falls in the range of value of the appraisal;

(iii) That in accordance with the approved method of providing notice in the City of Hamilton By-Law No. 04-299 “Procedural By-Law for the Sale of Land”, Section 12 (a) (6), notice to the public of the proposed sale of land is given by inclusion of this recommendation to City Council.

**EXECUTIVE SUMMARY**

In 2006 Union Gas Limited installed infrastructure (gas main) along the west side of Jarvis Street, facilitating service to a new 11 storey residential building located on King Street. To formalize and secure its interests, Union Gas Limited requires an easement from the City.
The purpose of this report is to request Council to declare the land covering the infrastructure as surplus and convey an easement to Union Gas Limited at the appraised value of $10,325.00.

Alternatives for Consideration – See Page 4

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

Financial: The easement is being sold at fair market value, creating additional revenue for the City of Hamilton.

Staffing: There are no staffing implications arising from this recommendation, other than Real Estate and Legal staff working together on the sale of the easement to Union Gas Limited.

Legal: Legal staff is needed to assist Real Estate staff in preparing the Offer to Purchase (Easement) document and in completing the sale.

**HISTORICAL BACKGROUND** (Chronology of events)

Car Park 8 on King Street was acquired by the City in 1969. At its west limit, Union Gas Limited recently installed infrastructure (gas main) in an L-shaped configuration, as shown on Appendix “A”.

Where utilities cross City owned lands that are not road allowances, an easement is required. Approximately 101 square metres (1,087 square feet) of the proposed easement is in a closed road allowance. Union Gas Limited has agreed to formalize its installation by acquiring an easement from the City at market value.

The remaining 40.6 square metres (437 square feet) of the proposed easement lies partially within an open road allowance which is closed to vehicular traffic but open to pedestrian traffic. In this instance, the City will require Union Gas to enter into a consent agreement with the Public Works Department in lieu of market value consideration, as the City is not prepared to sell any real property interest in a designated road allowance.

The City’s holding is fully serviced, with a “Downtown Hamilton” Official Plan designation. Zoning is “D2” – Downtown Prime Retail Streets Zone according to By-law 05-200. The proposed easement, described as Part 1 on Plan 62R-18680, forms a small part of this property. Placement of the Union Gas infrastructure will have minimal effect on the property in terms of future redevelopment since it coincides with existing municipal utilities underground, specifically an 8 inch watermain and a 3 x 4 foot brick storm sewer.
The value of the easement within the open road allowance and pedestrian walkway was appraised at $10,325.00. Union Gas Limited has agreed to compensate the City at the appraised market value. Public Works Department has confirmed that a consent agreement with Union Gas Limited has been fulfilled.

**POLICY IMPLICATIONS**

This recommendation is consistent with the Real Estate Management Portfolio Strategy Plan as approved by City Council on November 24, 2004, and the “Procedural By-law for the Sale of Land”, By-law 04-299 that City Council must declare surplus any lands to be disposed of by the City.

**RELEVANT CONSULTATION**

- Public Works Department
- Legal Services, City Manager’s Office
- Real Estate Section, Planning and Economic Development Department
- Hamilton Municipal Parking System, Planning and Economic Development Department

**ANALYSIS / RATIONALE FOR RECOMMENDATION**

(include Performance Measurement/Benchmarking Data, if applicable)

Declaring the lands surplus would allow Real Estate staff to proceed with conveying an easement to Union Gas Limited, thereby legalizing the interests of the utility and shielding the City from liability.

**ALTERNATIVES FOR CONSIDERATION:**

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

Should Council deny the recommendation to declare the subject land surplus and conveying an easement to Union Gas Limited, the constructed infrastructure will have no legal status and the City would be exposed to liability.

Approval of the recommendation by Committee and Council will authorize Real Estate staff to proceed with acquisition of the lands required for this infrastructure.
**CORPORATE STRATEGIC PLAN** (Linkage to Desired End Results)


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<tr>
<th>Skilled, Innovative &amp; Respectful Organization</th>
<th>n/a</th>
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<tbody>
<tr>
<td><strong>Financial Sustainability</strong></td>
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<tr>
<td>• It is important to increase the number of industrial land options to meet the needs of new, relocating or expanding business.</td>
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<td><strong>Intergovernmental Relationships</strong></td>
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<td>• Maintain effective relationships with other public agencies.</td>
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<td><strong>Growing Our Economy</strong></td>
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<td>• Opportunity to support growth in residential and industrial development with additional infrastructure.</td>
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<td><strong>Social Development</strong></td>
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<td>• n/a</td>
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<td><strong>Environmental Stewardship</strong></td>
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<td><strong>Healthy Community</strong></td>
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**APPENDICES / SCHEDULES**

Appendix “A” to Report PED10203