

**CITY OF HAMILTON**

**PLANNING AND ECONOMIC DEVELOPMENT**  
*Economic Development Division*

<b>TO:</b> Mayor and Members General Issues Committee	<b>WARD(S) AFFECTED:</b> CITY WIDE
<b>COMMITTEE DATE:</b> August 13, 2012	
<b>SUBJECT/REPORT NO:</b> Terms of Reference for the School Board Properties Sub-Committee (PED12135) (City Wide)	
<b>SUBMITTED BY:</b> Tim McCabe General Manager Planning and Economic Development Department	<b>PREPARED BY:</b> Neil Everson (905) 546-2424 Ext. 2359 Bill Farkas (905) 546-2424 Ext. 7019
<b>SIGNATURE:</b>	

**RECOMMENDATION**

- (a) That Report PED12135 respecting School Boards Properties Sub-Committee be received.
- (b) That the Terms of Reference for the School Board Properties Sub-Committee attached as Appendix "A" to Report PED12135 be approved.

**EXECUTIVE SUMMARY**

At the June 5, 2012 Planning Committee and subsequent City Council meeting of June 13, 2012, a motion was approved to establish a Sub-committee of City Council to review those school board properties being declared surplus by both boards and report back to the General Issues Committee (GIC) with recommendations, including a financial strategy for potential acquisitions.

This Report includes a recommended draft Terms of Reference (see Appendix "A") for this Sub-Committee. The Terms of Reference provides details on the Sub-Committee's mandate, membership and reporting structure, the general scope of the Sub-committee and its deliverables, and staff support to the Sub-Committee.

***Alternatives for Consideration – See Page 5***

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

**Financial:** To be determined.

**Staffing:** Senior staff from the Portfolio Management Committee will serve as the staff resource to this Sub-Committee.

**Legal:** Legal Services is a member of the staff support team to this Sub-Committee.

**HISTORICAL BACKGROUND** (Chronology of events)

The Hamilton-Wentworth District School Board (HWDSB) has an established property disposition protocol for any and all Board-owned properties declared surplus. The protocol consists of three distinct phases:

- 1) Communications and Planning;
- 2) Formal Property Disposition Process; and,
- 3) Post Ontario Reg. 444 Circulation – Administrative Process.

In the first phase (Communications and Planning), the Board annually receives an updated Capital Plan that provides direction specific to the accommodation needs of the HWDSB. This Capital Plan along with strategic accommodation Concept Plans identifies all School Board property assets that have the potential for disposal in the short, medium and long terms. An Accommodations Review Committee assists the Board in recommending schools for potential closure. Through this process both the City of Hamilton and the Community will typically have a two-year lead time prior to any school closure. This lead time provides the City time to prepare an “Offer to Purchase” once the HWDSB engages Ontario Reg. 444. As part of the joint City of Hamilton and HWDSB pre-consultation process, a “Public Notice” is issued followed by a “Notice of Intent” to sell school lands. The HWDSB Board employs a disposition strategy of maximizing land value on all properties and that all sales are consistent with a “fair market value”.

The formal property disposition process for HWDSB is in accordance with Section 194(3) of the Ontario Education Act that governs the disposal of all School Board properties and related assets. At the conclusion of the 90 day public consultation process, Administration provides a report to the Board recommending that the property be declared surplus to the Board’s needs. Upon adoption of this motion, Ontario Reg. 444 is engaged and the first rights of acquisition are extended and bona fide offer dealt with sequentially to other school boards (4), colleges (2), the University, the Crown

**SUBJECT: Terms of Reference for the School Board Properties Sub-Committee  
(PED12135) (City Wide) - Page 3 of 6**

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Right of Ontario, the City of Hamilton, and finally, the Crown Right of Canada. Again, all offers must be based on an accepted or adjudicated “market value”.

The third phase is invoked if the Board does not receive an Offer to purchase from a “preferred” body or agency to which a proposal was issued before the expiration of the 90 day period. The necessary actions will then be implemented to dispose of the surplus lands as directed by the Board. These actions may include a public tendering bid process, receipt of offers to purchase, publicly advertising and negotiating a sale, engaging a professional Real Estate firm; or transacting with an individual purchaser (single source). Once again, all transactions must be based on a professional market value assessment; compliance with all Provincial and Municipal regulations and be acceptable to the Board’s legal counsel.

The Hamilton Wentworth Catholic District School Board (HWCDSB) has a similar process as used by the HWDSB but has not declared any properties/schools surplus in the last decade with the exception of the recent Bishop Ryan Catholic Secondary School property. To the contrary, the number of schools/facilities has increased to accommodate the growth in their school system. Regardless, the HWCDSB is subject to the same property disposition protocols under the Province of Ontario Education Act and, specifically, Ontario Reg. 444/98.

Since 1998, the Hamilton-Wentworth District School Board (HWDSB) has declared surplus 34 Board-owned properties (or parts of properties) and sold them to a variety of buyers including the City of Hamilton, other school boards, other community organizations, and businesses/developers. These land sales totalled 123 acres and generated \$23 million in proceeds for the HWDSB. To date, including those properties currently in negotiations, the City of Hamilton has acquired 14 sites consisting of 54.11 acres of former HWDSB property at a total cost (including acquisition, demolition, operating, studies and engineering, designated substance material abatement and disposal and site remediation) of \$14,652,052.

On April 27, 2005, City Council approved Report CM05011 “*Hamilton-Wentworth District School Board Property Purchases Program*”. This Report established a HWDSB Property Purchases Program with a select number of properties of interest identified for acquisition by the City. The reason being that, at the time this Report was approved, the City’s main funding source (unallocated municipal capital reserves) for the program had become depleted. Consequently, the following two recommendations were inserted to Report CM05011 and approved by City Council.

- (b) *That the City of Hamilton not bid on any further Hamilton Wentworth District (HWD) School Board sites other than what has been committed in Table 1, due to the declining capital reserves from which these purchases are funded.*

- (c) *That the Real Estate Section of the Development & Real Estate Division of the Planning & Development Department be authorized and directed to notify the HWD School Board that the City of Hamilton has no interest to any additional sites which may be deemed surplus, other than those referred to in Table 1."*

However, since the approval of that Report there have been eight (8) HWDSB properties, including three (3) schools, that the City has either expressed interest in, are currently under review, or have been purchased.

#### **POLICY IMPLICATIONS**

City Council, at its meeting of November 24, 2004, adopted the City's Portfolio Real Estate Strategy Plan which established a formalized process to be consistently applied across all areas of the City to guide the management of the City's real property owned, leased, to be sold and acquired.

Section 4.3, "Acquisition" establishes criteria and principles surrounding acquisition of real property. As noted under this section, acquisitions of properties will primarily occur:

- i) For a new municipal facility, through the capital budget planning process;
- ii) As a dedication, through the development approval; and,
- iii) As a result of tax arrears or donations.

The Council adopted principles for acquisition states that *"Property will only be acquired in support of an approved program only. A budget item must be approved for the program, including the costs of the real property and operational impact, before action is taken to acquire property."*

Exceptions to this policy should be authorized by Council if all property purchases from both Boards are to be approved and implemented.

#### **RELEVANT CONSULTATION**

Portfolio Management Team (represents all City Departments)  
General Manager, Finance and Corporate Services  
General Manager, Public Works

#### **ANALYSIS / RATIONALE FOR RECOMMENDATION**

(include Performance Measurement/Benchmarking Data, if applicable)

The formation of a School Board Properties Sub-Committee of Council will provide staff with clear direction and an established protocol regarding the acquisition of any surplus properties declared by both of Hamilton's school boards. This will also allow for

**SUBJECT: Terms of Reference for the School Board Properties Sub-Committee (PED12135) (City Wide) - Page 5 of 6**

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advanced and improved planning at a neighbourhood level for issues related to parkland, outdoor recreational facilities, sports fields and joint City/school recreational centres.

Currently, when the City is notified by the Board(s) that a property is declared surplus to their needs, the City of Hamilton Real Estate staff email all Council members and City departments. The City's Portfolio Management Committee is also consulted at its monthly meeting regarding the interest in acquiring any surplus Board(s) properties.

However, this approach does not allow for long term planning from both a neighbourhood use and financial perspective. The new Sub-Committee of Council will enable a more orderly and strategic process to address critical shortages of parkland, or land for other desired community uses on both a City-wide and an individual Ward basis, as compared to what has become a more "ad hoc" approach currently in use when a Board property is identified as surplus.

**ALTERNATIVES FOR CONSIDERATION**

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

The Committee may alter the Terms of Reference by adding or removing or revising the staff resources suggested.

**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

***Financial Sustainability***

- ◆ Financially Sustainable City by 2020
- ◆ Effective and sustainable Growth Management
- ◆ Delivery of municipal services and management capital assets/liabilities in a sustainable, innovative and cost effective manner

***Intergovernmental Relationships***

- ◆ Maintain effective relationships with other public agencies

***Social Development***

- ◆ People participate in all aspects of community life without barriers or stigma

***Environmental Stewardship***

- ◆ Aspiring to the highest environmental standards

***Healthy Community***

- ◆ Plan and manage the built environment
- ◆ Adequate access to food, water, shelter and income, safety, work, recreation and support for all (Human Services)

<b>APPENDICES / SCHEDULES</b>
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Appendix "A" - Draft Terms of Reference for School Board Properties Sub-Committee

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## SCHOOL BOARD PROPERTIES SUB-COMMITTEE

### TERMS OF REFERENCE

#### Mandate

That the City of Hamilton will establish a Sub-Committee, with a balance of urban and rural Councillors, to review the list of school board properties scheduled to be declared surplus. And that the Sub-Committee report back to a future General Issues Committee (GIC) meeting with recommendations including a financial strategy for any potential acquisitions.

#### Sub-Committee Objectives

1. That the Sub-Committee will develop a school board (Public and Catholic) acquisition strategy based on the two fundamental criteria of “need” and “affordability”.
2. That the Community Services “**Outdoor Recreation Facilities & Sports Fields Provision Plan**” and the Public Works “**Parkland Acquisition Strategy**” be used as the primary basis for the determination of any green space shortage and the need for associated recreation/community centres in each Ward.
3. That the priority ranked locations will be established based on those Wards that demonstrate the greatest need and/or those neighbourhoods with the most substantial parkland deficits.
4. To give high priority to those school board properties that have joint school/City of Hamilton Recreational facilities which, if closed, would have the most significant impact on the Ward and its respective neighbourhoods.
5. That a comprehensive Pro Forma Financial Strategy be developed to quantify the estimated net expenditures for this initiative in total and on an annual basis.

#### General Scope of Committee Work and Deliverables

1. Review the current practices, staffing resources, core functions, and key services, as they relate to acquisition of School Board properties, and identify specific issues and strategies that need enhancement or improvement that would lead to a more efficient and cost effective acquisition process.
2. Review any Memorandums of Understanding and the current process of the acquisition of school board properties and, in doing so, identify any gaps and/or shortcomings that may exist, and recommend any actions or policies for improvements.

3. Examine the feasibility of acquiring School Board properties with the intent of “up-zoning”, demolishing, remediating, putting development concept approvals in place, and disposing of the acquired properties at market value or higher.
4. In the preparation of a multi-year financial strategy for the future acquisition of School Board properties that a business case analysis be undertaken for each one of the properties identified for consideration.

### **Sub-Committee Staff Support**

With the objectives of the Committee being specific to the current processes, a close working relationship between staff and the Sub-Committee will be important. Therefore, the General Managers of Planning and Economic Development, Public Works, Corporate Services and Community Services will assign a Director/Manager level member of their staff to be available to serve as a resource to the Sub-Committee. As well, they will ensure that any other key staff members relevant to the objectives of the Sub-Committee are regularly made available to assist and support the Sub-Committee’s work.

### **Membership and Reporting Structure**

Sub-Committee membership will consist of six (6) members of Council, with the Chair being appointed by the Sub-Committee at its first meeting. It is recommended that Council membership take into consideration the differing needs of the older developed Wards, the suburban Wards, and the rural area of the City.

The following Senior Staff from the Portfolio Management Committee (PMC) will be required resources to this Sub-Committee:

Director of Economic Development (PMC Chair), Planning and Economic Development  
Manager of Real Estate, Planning and Economic Development  
Director of Planning, Planning and Economic Development  
Director of Community Facilities, Community Services  
Director of Energy, Fleet and Facilities, Public Works  
Director of Strategic Planning, Public Works  
Director of Financial Planning, Corporate Services  
Manager of Capital Budgets, Corporate Services  
Senior Solicitor (Commercial), Legal Services, City Manager’s Office

The Sub-Committee shall report back to General Issues Committee (GIC) periodically at the discretion of the Committee.

### **Meetings**

As required at the call of the Chair.

**Time Frame**

Sub-Committee will begin work in September 2012. It is expected to have a report of preliminary findings by January 2013, with a final report to the GIC by no later than the end of March 2013.