TO: Chair and Members  
Audit, Finance and Administration Committee  
WARD(S) AFFECTED: WARD 9

COMMITTEE DATE: February 10, 2014

SUBJECT/REPORT NO:  
Treasurer's Write-off of Taxes under Section 354 of the Municipal Act, 2001 (FCS14004) (Ward 9)

SUBMITTED BY:  
Mike Zegarac  
Acting General Manager  
Finance & Corporate Services

PREPARED BY:  
Larry Friday 905 546-2424 Ext. 2425

SIGNATURE:

RECOMMENDATION

That the taxes for 0 Aylmer Street, in the amount of $2,015 be approved for write-off, as a result of a failed tax sale of the property and the expected subsequent sale of the property by real estate, closing January 24, 2014.

EXECUTIVE SUMMARY

Section 354(3) of the Municipal Act, 2001 allows Council to write-off taxes as uncollectible, upon the recommendation of the Treasurer, after a failed tax sale. As this property has no value and would continue to accumulate taxes which are uncollectible, it is recommended that the taxes be written off to allow the property to be sold and a 1975 registration problem fixed.

Alternatives for Consideration – See Page 4
FINANCIAL / STAFFING / LEGAL IMPLICATIONS (for Recommendation(s) only)

Financial: Total taxes to be written off are $2,015 of which $256 would be charged back to the English Separate School Board; $1,161 would be charged to HAMTN 12040 000100 (Tax Write-offs); and $598 would be charged to HAMTN 52167-252009 (Penalty and Interest).

Staffing: N/A

Legal: N/A

HISTORICAL BACKGROUND (Chronology of events)

The property at 0 Aylmer Street is a 40 foot wide by 4 foot deep strip of land located at the back of 124 and 126 Aylmer Street. The property was originally created in 1975 as an easement for cable for the adjoining townhouses known as Albion Estates. At that time, this easement should have been included in the registration and sale of the homes at 124 and 126 Aylmer Street. However, that did not happen and the strip of land was left in the name of the developer (Brian Robinson Construction). Subsequent owners of 124 and 126 Aylmer Street did not pursue this land registration error. The development company has subsequently been absolved. Although, for land registration purposes, this property is a separate identified parcel and was not picked up by the Municipal Property Assessment Corporation (MPAC) until the 2007 tax year. The Land Registry System was in the process of updating their parcels from a Registry designation to a more defined Land Titles designation. It is believed that this then triggered Teranet for the province to clearly define this as a separate parcel and then for MPAC to assign a roll number and value to this landlocked strip which they evaluated at $24,500 in residential assessment.

As the developer’s company was absolved, the tax bills were not being paid and the property went three years in arrears. Staff then investigated and registered a lien on the property and had MPAC put a nominal value on the property of $100. The two homeowners at 124 and 126 Aylmer Street were advised of the issue as they were recent purchasers of their properties. They were advised of the tax sale and the fact that, as this was landlocked, it had little value and there was a high probability that the property would fail at tax sale. As the property, in question, runs along the back of both properties and as it was one property versus two separate properties, it could not be split during tax sale and therefore each owner could bid on it. As the strip adds no real value to both properties, the outstanding taxes were also an impediment to selling the property at tax sale.
The property was offered for tax sale in May of 2013 and, as expected, there were no bids. Staff were in constant contact with both homeowners and their lawyers. The property will be vested to the City and the City then has authority, under planning, to split the property into two parcels to be sold to the owners of 124 and 126 Aylmer Street, thereby fixing an error dating back to 1975 and a tax issue since 2007.

**POLICY IMPLICATIONS/LEGISLATED REQUIREMENTS**

Section 354 (3) of the Municipal Act, 2001  
Procedural By-Law 04-299 for the Sale of Lands

**RELEVANT CONSULTATION**

Planning & Economic Development, Real Estate Division  
Legal Services, City Manager’s Office

**ANALYSIS / RATIONALE FOR RECOMMENDATION**  
(include Performance Measurement/Benchmarking Data, if applicable)

By selling the strip of land to the owners of the two properties that the land should have been transferred to back in 1975, a tax issue is being fixed and assistance is being provided to homeowners in fixing a registration problem. Both of the homeowners are paying for the cost of the transfer at land registry, as well as, reimbursing the City costs of $750 per property. The taxes for this strip were artificially high as MPAC had the property over valued for the years 2007 to 2010. By writing off the taxes, all parties are agreeing to fix this problem going forward. Currently $2,015 is outstanding. As the 2007 to 2010 assessments were artificially high, the taxes were therefore also artificially high. In 2011, MPAC put a nominal value on the property as a result of its size and landlocked position. If a proper value had been placed on the property from 2007, the taxes to be written off would be closer to $20.00.
ALTERNATIVES FOR CONSIDERATION
(include Financial, Staffing, Legal and Policy Implications and pros and cons for each alternative)

The taxes would remain on the property and would accumulate by approximately $2 per year. As the homeowners are currently paying the land registry fees, lawyers’ fees and the City’s administrative fees, the $2,015 in outstanding taxes would be a deal breaker.

ALIGNMENT TO THE 2012 – 2015 STRATEGIC PLAN:

Strategic Priority #2
Valued & Sustainable Services

*WE deliver high quality services that meet citizen needs and expectations, in a cost effective and responsible manner.*

Strategic Objective

2.2 Improve the City’s approach to engaging and informing citizens and stakeholders.

APPENDICES / SCHEDULES

None.