SUBJECT: Treasurer's Write-off of Taxes under Section 354 of the Municipal Act, 2001 (FCS09034) (Wards 3, 4 & 11)

RECOMMENDATION:

a) That the Treasurer, under Section 354(3) of the Municipal Act (2001), write-off taxes as uncollectible due to a failed tax sale on 325-327 Barton Street East (Ward 3), in the amount of $41,670.28;

b) That the Treasurer, under Section 354(3) of the Municipal Act (2001), write-off taxes as uncollectible due to a failed tax sale on 308–312 Tragina Avenue North (Ward 4), in the amount of $8,198.79; and

c) That the Treasurer, under Section 354(4) (b) of the Municipal Act (2001), write-off taxes as uncollectible on 185 Thames Way, 0 Provident Way S/S, 3472 Highway 6, 0 White Church Road, 0 Hampton Brook Way, and 0 Thames Way S/S, in the amount of $19,035.64, as conducting a tax sale would be inappropriate.

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.
Section 354(4) (b) of The Municipal Act, 2001, allows Council to write-off taxes, as uncollectible, if the recommendation of the Treasurer includes a written explanation of why conducting a tax sale would be ineffective or inappropriate.

**BACKGROUND:**

The properties at 325-327 Barton Street East and 308-312 Tragina Avenue North were both offered for tax sale in November, 2008, at which time no bids were received on either property.

The property at 325-327 Barton Street East was a mixed commercial and residential property that had suffered fire damage a number of years ago. Prior to the tax sale, the City Property Standards Section was involved in securing the front of the property with boarding, due to bricks falling off the front. Due to the state of the property, and the amount of taxes and property standards charges owing, there were no bids received on the property. Shortly after the failed tax sale, it was recommended by a structural engineer that the building would have to be demolished. This was carried out, under the direction of the Building Department, and the site cleaned, with further charges added to the tax roll. The Real Estate Division has since advertised the lot for sale and has received an Offer to Purchase of $16,100. Once those funds are applied to the Real Estate fees, Legal expenses and Property Standards charges, there is a balance of $41,370.23 to be written-off.

The property at 308-312 Tragina Avenue North is an empty lot that also had Property Standards involvement in 2005. The property, in 2005, consisted of a Triplex that sustained major fire damage and had to be demolished. Due to taxes owing, the Property Standards charges and the value of the vacant lot, there were no bids received on this property. The Real Estate Division has since advertised the lot for sale and has received an Offer to Purchase of $14,000. Once those funds are applied to the Real Estate fees, Legal expenses and taxes owing, there is a balance of $8,040.33 to be written-off.

The taxes to be written-off under Section 354(4) (b) represent Southampton Park, as well as, a storm water channel and retention pond for Southampton Estates Phase 2 subdivision. When the subdivision was registered in 2006, these lands were identified as to be transferred over to the City in the subdivision agreement, with the exception of the pond, which remains with the developer. In total, four (4) properties were subdivided into one hundred and thirty two (132) lots. As the properties were not transferred to the City until late 2008, taxes have accumulated on the properties for most of 2006, all of 2007 and all of 2008. Had the lands been transferred, at the time, then we would have been able to declare the City lands exempt at that time under Section 357 of the Municipal Act.

The storm water retention pond was given an assessment value of $365,000 when staff asked the Municipal Property Assessment Corporation (MPAC) for an apportionment of the one hundred and thirty two (132) lots on this subdivision in early 2009. The apportionment process simply takes total land assessment value as of 2006 and apportions the values, based on square footage, for the newly created lots. As the
apportionment figures were supplied in 2009 for 2006 (is this correct?), there is no legislated recourse for the developer to challenge the value put on the pond. In 2007, when MPAC had valued the pond they gave it a value of $59,000, recognizing it is currently unable to be developed. In order to treat the 2006 value equitably, staff in the Taxation Division recommend that the 2006 taxes also be based on a $59,000 assessment value.

**ANALYSIS/RATIONALE:**

All means to collect the outstanding taxes have now been exhausted for the two (2) tax sale properties. The purchaser of 325-327 Barton Street East has a clause in their Offer to Purchase that, construction on a commercial and/or residential building, must commence within one hundred and fifty (150) days of closing and be completed with twenty-four (24) months of closing. A similar clause is in the Offer to Purchase for 308-312 Tragina Avenue North that construction of a residential dwelling must commence within one hundred and twenty (120) days of closing and be completed within twenty-four (24) months of closing. Both sales close on April 24, 2009.

By writing off the tax balances and selling the two (2) properties, the City will no longer be responsible for maintenance and general liability. With new buildings to be constructed, the assessed value of the properties will increase leading to greater tax revenue to the City.

Section 354(4) (b) is the only recourse available to the City to remove the taxes on the Park and the storm water retention channel. Had these transfers been done, in a timely manner, the exemptions would have been handled under Section 357 of the Municipal Act in 2006 and the 2007 and 2008 assessments would have been returned from MPAC on the assessment rolls, as exempt, rather than taxable. Lowering the 2006 value on the retention pond, still owned by the developer, to the same value MPAC assigned in 2007 and 2008, is fair and equitable to all parties.

**ALTERNATIVES FOR CONSIDERATION:**

None.

**FINANCIAL/STAFFING/LEGAL IMPLICATIONS:**

The taxes that will be written-off for 325-327 Barton Street East under Section 354(3), total $41,670.28; of which $284.47 will be applied to HAMTN 12643.000100 (Water Rate Budget), $284.48 to HAMTN 12642.000100 (Sewer Rate Budget), $2,957.73 to the various School Boards, $3,485.03 to HAMTN 52167.252009 (Penalty and Interest), and $34,658.57 to HAMTN 12040.000100 (Tax Write-Offs).

The taxes that will be written off for 308-312 Tragina Avenue North under Section 354(3), total $8,198.79; of which $532.47 will be applied to the English Separate School Board;
$1,161.32 to HAMTN 52167.252009 (Penalty and Interest), and $6,505.00 to HAMTN 12040.000100 (Tax Write-Offs).

The taxes that will be written off in regards to Southampton Park, the Storm Water Channel properties and the Storm Water Retention Pond under Section 354 (4) (b), total $19,035.64; of which $2,278.32 will be applied to the English Public School Board; $564.10 to HAMTN 52167.252009 (Penalty and Interest), and $16,193.22 to HAMTN 12040.000100 (Tax Write-Offs).

POLICIES AFFECTING PROPOSAL:


RELEVANT CONSULTATION:

Real Estate Division, Planning & Economic Development Department
Legal Services Division, Corporate Services Department
Municipal Property Assessment Corporation (MPAC)

CITY STRATEGIC COMMITMENT:

By evaluating the “Triple Bottom Line”, (community, environment, economic implications) we can make choices that create value across all three bottom lines, moving us closer to our vision for a sustainable community, and Provincial interests.

Community Well-Being is enhanced. ☑ Yes ☐ No
New buildings will be built on two vacant pieces of land increasing the assessment base and tax base.

Environmental Well-Being is enhanced. ☐ Yes ☑ No

Economic Well-Being is enhanced. ☑ Yes ☐ No
Uncollectible taxes will be removed from the City books while new assessment and taxes will be created. City will no longer be responsible for maintaining and insuring a property.

Does the option you are recommending create value across all three bottom lines? ☐ Yes ☑ No

Do the options you are recommending make Hamilton a City of choice for high performance public servants? ☐ Yes ☑ No