RECOMMENDATIONS

(a) That an Option to Purchase executed by John Yeomans and Marlene Phibbs on June 3, 2011, and scheduled to close on or before March 15, 2012, to purchase the lands and buildings described as Part of Lot 16, Concession 1 in the Geographic Township of Ancaster, as in Instrument VM166635 (save and except: Part 1 on Plan 62R-7568 and Part 1 on Plan 62R-9619), in the City of Hamilton, consisting of approximately 18.81 ha (46.5 acres) being all of PIN 17408-0016(LT), and Roll No. 251814011042550, known municipally as 3618 Governors Road, shown on Appendix “A” attached to PED11129, be approved and completed, at the purchase price of $630,000;

(b) That the purchase price of $630,000 be funded as follows: $550,000 to be funded from Account No. 59258-5140566508 (Lynden Communal System) and $80,000 to be funded from Account No. 59258-5140755701 (Source Protection Planning);

(c) That as consideration, the amount of $2 paid to the owners pursuant to the agreement, be deducted from the purchase price;
That the purchase be subject to the following conditions:

(i) This Option to Purchase shall be conditional for a period of forty (45) days from the date of acceptance by the City ("the Conditional Period"), to allow the City to enter upon the subject lands for the purposes of carrying out physical and environmental inspections (hereinafter the "Environmental Assessment"), investigations and testing, and for the installation of a test well for the purpose of finding a suitable ground water supply to the satisfaction of the Manager of Infrastructure and Water Source Planning, pursuant to the Authority to Enter provided by the Owner to the City attached as Schedule "C";

(ii) That the Owner is to provide vacant possession except, in the event that the closing date of this Option to Purchase is prior to January 1, 2012, the City assumes the current agricultural tenant;

(e) That upon acquisition of the lands the Director of Transportation, Energy and Facilities, be authorized to take all the necessary steps to demolish the subject buildings, and that the cost of demolition and any associated expenses estimated at $35,000 (Legal Fees, Environmental Site Assessment, Permits, Designated Substance Studies, Abatement, and Contingency) be funded from Account No. 5140566508 (Lynden Communal System);

(f) That costs incurred for Real Estate, survey and legal expenses in the amount of $14,950 (inclusive of an appraisal), be funded from Account No. 5140566508 (Lynden Communal System) and credited to Account No. 45408-3560150200 (Property Purchases and Sales);

(g) That any excess land not required for municipal use be declared surplus, and the Real Estate Section be authorized and directed to negotiate the sale of the surplus lands at fair market value and that the net sale proceeds be credited to Account No. 47702-5140755701 (Source Protection Planning);

(h) That any lease revenue derived from an agricultural lease on the land be credited to Account No. 46068-5140755701 (Source Protection Planning); and,

(i) That the Mayor and Clerk be authorized and directed to execute any necessary documents, in a form satisfactory to the City Solicitor.

EXECUTIVE SUMMARY

The City of Hamilton operates a groundwater sourced municipal drinking water system in the Lynden Rural Settlement Area (RSA) which collects water from a single pumping well located at 3630 Governors Road. Responding to concerns raised by residents of
Lynden over the quality and quantity of its private water service, the City commissioned a Municipal Class Environmental Assessment Master Water Study which investigated several alternatives to water supply. The study recommended that the existing well supply be upgraded and the establishment of a back-up well.

In September 2010 the Province, through the Ontario Drinking Water Stewardship Program, announced a grant funding program allowing municipalities to purchase lands within a 100m radius of a municipal well (Wellhead Protection Area – WHPA) for the purpose of mitigating threats to water supply. Subsequently, on March 9, 2011, Council adopted Item 3 of the Public Works Committee Report No.11-004, endorsing the grant program and directed staff from Real Estate Section to commence negotiations with the property owner at 3618 Governors Road, Ancaster. A portion of these lands will accommodate a back-up well and any surplus land will be conveyed as an offset to the purchase price.

Alternatives for Consideration - See Page 7

FINANCIAL / STAFFING / LEGAL IMPLICATIONS

Financial:
Funds in support of this project will derive in part from a Provincial grant of $83,000 in Project ID 5140755701 (Source Protection Planning) and from City funds amounting to $637,950 in Project ID 5140566508 (Lynden Communal System Account). The funds being reimbursed by the Province via the grant funding agreement and cost allocations are itemized in the following table:

<table>
<thead>
<tr>
<th>Item</th>
<th>Project ID 5140566508</th>
<th>Project ID 5140755701</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Purchase Price of 3618 Governors Rd.</td>
<td>$550,000</td>
<td>$80,000</td>
<td>$630,000</td>
</tr>
<tr>
<td>Real Estate Fee</td>
<td>11,950</td>
<td>3,000</td>
<td>14,950</td>
</tr>
<tr>
<td>Environmental Site Assessment, Permits, Designated Substance Studies, Abatement, Demolition, Legal Fees</td>
<td>35,000</td>
<td>0</td>
<td>35,000</td>
</tr>
<tr>
<td><strong>Subtotal</strong></td>
<td><strong>596,950</strong></td>
<td><strong>83,000</strong></td>
<td><strong>679,950</strong></td>
</tr>
<tr>
<td>Contingency</td>
<td>30,000</td>
<td>0</td>
<td>30,000</td>
</tr>
<tr>
<td>Non-recoverable HST</td>
<td>11,000</td>
<td>0</td>
<td>11,000</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>637,950</strong></td>
<td><strong>83,000</strong></td>
<td><strong>720,950</strong></td>
</tr>
</tbody>
</table>

Additional costs related to the installation of a test well, completion of the Class Environmental Assessment, Planning and Design, and construction management of the pump house / treatment system will be covered by an existing PO to Genivar Inc. Costs associated with the actual construction of the pump house, treatment and distribution infrastructure are being requested in the 2012 budget submissions, in the amount of $2 million.
Following construction of the well and a suitable buffer, there may be up to 35 acres of tile drained farmland surplus to the City’s requirement. To offset the costs of land acquisition, the surplus farmland could be sold at fair market value and the net sale proceeds credited to Account No. 5140755701 (Source Protection Planning).

The retained non-agricultural area will be re-forested with indigenous species, funded by revenue generated from the sale or lease of the surplus lands. In the interim, revenue from leasing the farmland will offset the costs of maintaining the property (with the exception of winter and access maintenance).

**Staffing:**
The there is no staffing implication arising from this recommendation.

**Legal:**
Legal Services has assisted in the preparation of the Option to Purchase document and will be required to complete the purchase transaction.

**HISTORICAL BACKGROUND**

The former Region of Hamilton Wentworth installed a well on a small parcel of land severed from 3618 Governors Rd in 1985. This original well was to provide a municipal water supply for the village of Lynden following the Ministry of Environment’s decision that the developed area south of the railroad tracks would best be served by a communal well. The parcel, measuring 20 m X 20 m (65 ft. X65 ft.), was sufficient for installation of the well and its related infrastructure but not ideal from a source protection perspective. Its close proximity to the road and agricultural activities is the primary reason for the City’s request for a Provincial grant in support of land acquisition.

In instances when pumping needs to cease for water quality or infrastructure reasons, hauled water is supplied to the residents of Lynden. As such, since 2006, the City has been exploring options for a back-up well through the Class Environmental Assessment process and field exploration program. A well siting prioritization process was undertaken and several candidate sites were identified and assessed including: Copetown, Governors Road (east of existing well), Powerline Road at Lynden Road (southwest of existing well), Lynden Legion (north west of existing well), and Concession 2 Road West (north of existing well).

In evaluating these sites, two perspectives were considered - redundancy of supply vs. redundancy of infrastructure. For each of the options a redundancy of infrastructure is a given, however, at varying costs considering the upfront capital cost and increased operational and replacement cost of additional distribution infrastructure (pumping, pipeline, and residual chlorination considerations). Ideally, from an infrastructure perspective, a second well would be close to the existing pump house and distribution system. On the other hand, redundancy in supply would ensure an untreatable issue, such as contamination, could be more easily abated as the wells are drawing from...
different or separate source aquifers. This perspective, while not ideal in terms of capital and operational costs, is favourable from a source protection perspective.

Each location was field tested to evaluate available water quantity and quality. Some locations had sufficient quantity (Copetown and Powerline/Lynden Road) but quality and treatability presented a major concern (high dissolved solids and turbidity respectively). Other locations had insufficient quantity, having less than a third of the required capacity at most.

The chosen location, being the lands surrounding the existing well, was not preferred with respect to source redundancy, however, it provides redundant infrastructure with the lowest possible capital and operating costs considering the distribution system is already at the property boundary.

When first approached by City staff, the landowner was supportive but after Provincial funding was granted to the City, the landowner’s support had changed on the basis that a severance to the 100m radius would absorb the property’s entire road frontage, adversely affecting the value of the remaining land.

At the same time the City’s Public Works staff was looking at another possible alternative location capable of supplying the Lynden Rural Settlement Area potable water demand. This “last chance” option involved purchasing a segment of property on Concession 2 Road west and establishing a multi-well system. A multi-well system would have been necessary given that a single well in the primary aquifer could not supply the required demand. This option was looking less favourable as information flowed in with regards to the land owner’s reported reluctance to sell and insufficient well yield.

Concurrently, the option of purchasing the entire holding around the existing well began to emerge as the most favourable option. The grant from the Province was a significant factor in the decision to purchase the subject property, allowing the City to apply $83,000 (100%) of Provincial grant money to the purchase. The grant funding would not apply to other locations given it can only be applied to lands within the 100m radius of the existing well.

Acquisition of the subject land will allow the City to apply the Provincial grant, secure a suitable redundant well supply, and manage its activities within the 100m well radius of the existing well and proposed new well. As a result of delayed crop planting (due to heavy rains this spring) the City was able to employ some geophysics tools to help identify the most viable location for a test well on the subject lands. This exercise identified a gravel source aquifer in the north central portion of the farm. As a condition of purchase, the City will drill a test well at the location identified and ensure adequate water quantity and quality is available. The location will reflect the geophysical assessment as well as regulatory setbacks or buffers that have been or would be established under the Clean Water Act, 2006.
The location of the test well will optimize setback requirements / vulnerable areas (100m radius) such that the management of these lands and their associated activities can be undertaken in-house without reliance on private property owners to utilize voluntary or mandatory stewardship action. In other words, the City intends to place the well in a location such that all lands within the 100m radius are owned by the City.

**POLICY IMPlications**

This recommendation is consistent with the Real Estate Management Portfolio Strategy Plan, as approved by City Council on November 24, 2004, to acquire property in support of municipal programs and needs. As the purchase price exceeds the $250,000 limit set by City Council under the Delegation of Authority approval process, authorization of City Council is required.

This recommendation is consistent with the Public Works Business Plan, Innovate Now: A Compass for Public Works to 2017 that will guide Public Works in achieving the City’s vision which is to be recognized as the centre of environmental and innovative excellence in Canada and an immediate priority identified as being a leader in ‘greening’ and stewardship in the City.

**RELEVANT CONSULTATION**

- Ward 14 Councillor
- Corporate Services, Legal Services Division
- Planning and Economic Development Department, Economic Development Division
- Public Works Department, Environment & Sustainable Infrastructure Division

**ANALYSIS / RATIONALE FOR RECOMMENDATION**

On March 9, 2011, Council adopted Item 3 of the Public Works Committee Report PW-004, whereby the City would pursue a Grant Funding Agreement with the Province under the SPLS program, and directed Real Estate staff to commence negotiations with the property owner of 3618 Lynden Road for the purpose of acquiring lands within the 100m WHPA of the existing Lynden Municipal well to mitigate threats to the water source.

Real Estate staff entered into negotiations with the property owner and negotiated an Option to Purchase at a price of $630,000, being within the appraised market value range for the subject property.

With this purchase, the City will receive $83,000 in grants from the Province under the SPLS Program and mitigate threats for the water supply of the existing municipal well in Lynden. Acquisition of the subject property will enable the City to establish a redundant
well and secure an adequate water supply at the favoured location. Approval of this purchase will fulfil Council’s direction.

To satisfy the requirements under the City’s Contaminated Sites Management Program, the purchase is conditional on the completion of a favourable Environmental Site Assessment prior to closing. Secondly, the Option to Purchase is subject to the City installing a test water supply well to satisfy itself that there is an adequate supply and quality of water for a municipal well. The City has 45 days from the acceptance date of the Option in which to review the property and will recommend closing based on the results of both assessments. If favourable, the property will be purchased and, dependant on the location of back-up well to establish an appropriate buffer, the existing building may be required to be demolished thereafter. Any surplus land is to be sold at fair market value to offset the cost of acquisition. Funding is in place for the acquisition and management of lands being acquired, as approved by Council on September 13 when they adopted Item 14 of the September 11th, 2006 Public Works, Infrastructure and Environment Committee Report 06-012 (PW06120).

### ALTERNATIVES FOR CONSIDERATION

An alternative is not to purchase the lands around the Lynden municipal water supply well. Doing so would make it difficult to mitigate the threats to the water supply within the highly vulnerable 100m WHPA. Given that the City was successful in obtaining the grant funding, not purchasing these lands may require other types of mitigation (as deemed appropriate by the Lake Erie Source Protection Committee) and the cost of mitigation may have to be borne by the City Of Hamilton without an external source.

In the event that approval or funding of the Option to Purchase is not granted by Council at this time, the City may be faced with an expropriation in the future to acquire this property.

Other alternatives include different locations, however, as discussed in the Background Section of this Report, several locations were deemed less favourable due to limitations related to either water quantity or water quality. Likewise, all of these locations had significantly more capital costs as the City would have to install a distribution system from the new location (whereas distribution network exists at this location).

The risk of purchasing the property and not finding a viable water supply is mitigated because a condition of the purchase includes the installation and testing of a well to the satisfaction of the Manager of Infrastructure and Source Water Planning.
CORPORATE STRATEGIC PLAN


Skilled, Innovative & Respectful Organization

A culture of excellence
- More innovation, greater teamwork, better client focus
- An enabling work environment - respectful culture, well-being and safety, effective communication
- Opportunity for employee input in management decision making
- Council and SMT are recognized for their leadership and integrity

This opportunity demonstrates the leadership and integrity of Staff and Council in engaging in provincial programs aimed at improving the safety, sustainability, and security of the City's groundwater based Municipal Drinking Water Systems.

Financial Sustainability
- Financially Sustainable City by 2020
- Delivery of municipal services and management capital assets/liabilities in a sustainable, innovative and cost effective manner
- Address infrastructure deficiencies and unfunded liabilities
- Sustainable Tri-party Government Agreement

The funding program harnesses provincial dollars to work for the citizens of Hamilton and makes the most of the City's contributions in terms of in-kind project management and land management improvements.

Intergovernmental Relationships
- Acquire greater share of Provincial and Federal grants (including those that meet specific needs)
- Maintain effective relationships with other public agencies

This purchase harnesses a provincially funded Grant Program.

Environmental Stewardship
- Natural resources are protected and enhanced
- Aspiring to the highest environmental standards

The purchase is specifically aimed at enhancing the environmental well being in the area surrounding Municipal Drinking Water Systems, the outcome will be greater protection and improved security for the source of drinking water in Lynden.
**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)

The purchase will enhance the security of the source of drinking water that is relied upon by the residents of the Rural Settlement Area of Lynden.

**APPENDICES / SCHEDULES**

Appendix “A” to Report PED11129 - Location Map