Audit and Administration Committee
REPORT 09-012
AS AMENDED BY COUNCIL ON SEPTEMBER 16, 2009
9:30 a.m.
Wednesday, September 9, 2009
Committee Room 207
Hamilton Convention Centre
One Summer's Lane

Present:
Chair B. Clark
Vice-Chair R. Powers
Mayor F. Eisenberger
Councillors B. Bratina, C. Collins, B. Morelli, M. Pearson,
T. Whitehead

Also Present:
Councillor T. Jackson
C. Murray, City Manager
R. Rossini, General Manager; T. Tollis, Treasurer; R.
Male, Director of Financial Services; Angela
Boakes, Manager of Purchasing; Tracie Byrne,
Purchasing Analyst - Finance and Corporate
Services
P. Barkwell, City Solicitor – Legal Services
D. Gillespie, Chief Executive Officer; R. DiFilippo,
Corporate Controller – HECFI
D. McKinnon, Acting Director Water and Wastewater –
Public Works
K. Christenson, City Clerk; T. Fallis, Coordinator of
Elections and Freedom of Information; Wendy
Mason, Supervisor of Provincial Offences
Administration; M. Meyer, Legislative Assistant –
City Clerk’s Office

THE AUDIT AND ADMINISTRATION COMMITTEE PRESENTS REPORT 09-012
AND RESPECTFULLY RECOMMENDS:

1. FOI Quarterly Report (April 1 to June 30, 2009) (CL09003(a)) (City Wide)
   Council – September 16, 2009
(Item 5.2)

That Information Report CL09003(a) respecting FOI Quarterly Report be received.

2. Monthly Status Report of Tenders and Requests for Proposals for June 9, 2009 to August 10, 2009 (FCS09027(d)) (City Wide) (Item 5.3)

That Information Report FCS09027(d) respecting Monthly Status Report of Tenders and Requests for Proposals for June 9, 2009 to August 10, 2009 be received.

3. Quarterly Status Report on the Use of Policy 10 - Emergency Purchasing and Policy 11 - Negotiations for the 2nd Quarter 2009 (FCS09045(a)) (City Wide) (Item 5.4)


4. POA Annual Report (FCS09080) (City Wide) (Item 5.5)

That Information Report FCS09080 respecting POA Annual Report be received.

5. Cemetery Accounts Investment Performance Report – June 30, 2009 (FCS09088) (City Wide) (Item 5.6)


7. Reserve/Revenue Fund Investment Performance Report – June 30, 2009 (FCS09090) (City Wide) (Item 5.8)


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8. Development Charge Reserves Status Report as at December 31, 2008 (FCS09075) (City Wide) (Item 5.9)

That report FCS09075 “Development Charge Reserves Status Report as at December 31, 2008” be received for information.

9. HECFI Operating Budget Variance Report to June 30, 2009 (HECFI 09-001) (Item 7.1)

That Information Report HECFI 09-001 respecting HECFI Operating Budget Variance Report to June 30, 2009 be received.

10. Wastewater Abatement Program Amendments (FCS09058(a)) (City Wide) (Item 8.1(a))

That Information Report FCS09058(a) respecting HECFI Operating Budget Wastewater Abatement Program Amendments be received.

11. Wastewater Abatement Program Amendments (FCS09058) (City Wide) (Item 8.1(b))

(a) That the Wastewater Abatement Program amendments to provide commercial food growers the opportunity for an exemption from the payment of the wastewater charge for water not returned to the City’s sewer system be approved with the same requirements as potential participants from the commercial and industrial sectors;

(b) That all necessary amendments be made to the following City of Hamilton By-laws to reflect the Program amendments referred to in recommendation (a):
   (i) the City's Waterworks By-law R84-026, as amended; and
   (ii) the City's Sanitary Surcharge and Wastewater Abatement By-law No. 03-272, as amended; and

(c) That Item K be removed from the Audit & Administration Outstanding Business List.

12. Proposed Ontario Harmonized Sales Tax (FCS09069) (City Wide) (Item 8.2)

(a) That City Council send a request to the Provincial Government and to the Association of Municipalities of Ontario (“AMO”) to increase the
proposed Municipal rebate to 100% of the Provincial sales tax portion of the proposed Ontario harmonized sales tax (“OHST”) from 78%;

(b) That City Council send a request to the Provincial Government and to the Association of Municipalities of Ontario (“AMO”) to exempt users of recreation services from paying the proposed Ontario harmonized sales tax; and

(c) That item O of the Outstanding Business List from the Audit and Administration Committee be removed.

13. Proposed Write-Offs of Outstanding Fines for Provincial Offences and Parking Violation (FCS09081/PED09235) (City Wide) (Item 8.3)

That staff be authorized to write-off all outstanding Provincial Offences, By-Law Offences and Parking Fines, in the amount of $1,468,949.42, deemed uncollectible with a due date of December 31, 2001 as shown in Appendix “A” attached hereto.

14. Award of Corporate Tender C12-16-09 Refrigeration and Maintenance Services (FCS09084) (City Wide) (Item 8.4)

That the Corporate Tender, C12-16-09 for Refrigeration and Maintenance Services be awarded to the lowest compliant bidder, Ark-Tech Contracting Ltd. at the hourly rates quoted in their bid with an upset limit of $5,000/repair assignment.

15. Award of Corporate Tender C12-15-09 – Contractor Required to Provide Full Maintenance Program for the City of Hamilton Elevating Devices (FCS09085) (City Wide) (Item 8.5)

That the Corporate Tender C12-15-09 – Contractor Required to Provide Full Maintenance Program for the City of Hamilton Elevating Devices be awarded to the lowest compliant Bidder as per the following schedule:

Schedule A – Corporate Facilities: ThyssenKrupp Elevator Canada Ltd., for an approximate five year total of $232,944.

Schedule B – Community Services – Recreation Division: Kone Inc., for an approximate five year total of $77,389.

Schedule C – Hamilton Police Services: Schindler Elevator Corporation for an approximate five year total of $27,571.

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Schedule D – Public Works – Water Wastewater Division – Industrial – Main Pump House: ThyssenKrupp Elevator Canada Ltd., for an approximate five year total of $7,872.

Schedule E – Community Services – Long Term Care Facilities: Schindler Elevator Corporation for an approximate five year total of $27,781.

Schedule F – Hamilton Entertainment and Convention Facilities Inc: ThyssenKrupp Elevator Canada Ltd., for an approximate five year total of $351,474.

16. 2008 Reserve Report (FCS09073) (City Wide) (Item 8.6)

That the 2008 Reserve Report and the 2008 Reserves Detail Report, with 2007 Comparative figures and 2009 Projections, attached as Appendix “A” to Report FCS09073, be received.

17. Correspondence respecting Open Meter By-pass Valves submitted by Councillor Collins on behalf of Cynthia Delaney, Property Manager, 120 Quigley Road (Item 8.8)

(a) That the owners of 120 Quigley Road be billed based on historical water consumption rather than being charged the double rate penalty for an open water meter bypass; and

(b) That staff report back on the viability of installing locking devices on water meter bypass valves.

18. Litigation Matter between the City of Hamilton and Riverside Landscape Contractors Inc. (FCS09091/LS09012) (City Wide) (Item 12.2)

(a) That, due to ongoing litigation between the City of Hamilton and Riverside Landscape Contractors Inc., staff be directed to reject any future bids, proposals or quotations received from Riverside Landscape Contractors Inc., Greenpark Services, and 2083337 Ontario Inc. until October 1, 2019, unless a future resolution of City Council amends or revokes this direction; and

(b) That the contents of Report FCS09091/LS09012 remain confidential, as it contains information pertaining to litigation or potential litigation and advice that is subject to solicitor-client privilege, including communications necessary for that purpose.

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FOR THE INFORMATION OF COUNCIL:

(a) **CHANGES TO THE AGENDA (Item 1)**

The Clerk advised of the following changes to the agenda:

Item 8.9, Grants Report 09-003, is deleted from the agenda as the Grants Sub-Committee meeting was rescheduled.

Added as Item 4.1 is a delegation request for the September 23rd meeting from Dr. Justin Cooper, President of Redeemer University College, respecting a loan for the Redeemer Community Soccer Project.

Added as Item 4.2 is a delegation request for the September 23rd meeting from Jim Bethune, President of the Ancaster Soccer Club, respecting a loan for the Redeemer Community Soccer Project.

Added as Item 11.1 (e) is a verbal update respecting Litigation Reporting, which is Item (i) on the Outstanding Business List.

On a motion, the agenda was approved as amended.

(b) **DECLARATIONS OF INTEREST (Item 2)**

There were no declarations of interest.

(c) **MINUTES (Item 3)**

(i) **Minutes of the meeting held on June 17, 2009 (Item 3.1)**

That the minutes of the Audit and Administration Committee meeting held on June 17, 2009 be approved as presented.

(d) **Delegation request from Dr. Justin Cooper, President of Redeemer University College, to address a loan for the Redeemer Community Soccer Project at the Audit and Administration Committee meeting on September 23, 2009 (Added Item 4.1)**

That the delegation request from Dr. Justin Cooper, President of Redeemer University College, be approved.

(e) **Delegation request from Jim Bethune, president of the Ancaster Soccer Club, to address a loan for the Redeemer Community Soccer Project at**
the Audit and Administration Committee meeting on September 23, 2009 (Item 4.2)

That the delegation request from Jim Bethune, President of the Ancaster Soccer Club, be approved.

(f) Minutes of Various Sub-Committees (FOR INFORMATION PURPOSES ONLY) (Item 5.1)

That the following minutes of various sub-committees be received:

(a) Hamilton Mundialization Executive Committee – March 18, 2009
(b) Status of Women Committee – March 26, 2009
(c) GLBT Advisory Committee – April 23, 2009
(d) Committee Against Racism – January 27, 2009
(e) Committee Against Racism – March 24, 2009
(f) Committee Against Racism – April 28, 2009
(g) Committee Against Racism – May 26, 2009

(g) HECFI Operating Budget Variance Report to June 30, 2009 (HECFI 09-001) (Item 7.1)

David Suave, Chair of HECFI’s Audit and Finance Committee, provided an introduction. Duncan Gillespie, CEO of HECFI, made a PowerPoint presentation. Copies were distributed to Committee as part of the meeting agenda. Highlights of the presentation included:

- Current Financial Status
- Summary of Deficit Position
- Non-Controllable Components in Forecast
- Controllable Components in Forecast
- Actions Taken to Reduce Deficit – Period of July 1-December 31
- Historical Perspective – HECFI Municipal Contribution
- Historical Perspective – Municipal Contribution as a % of Operations
- Historical Perspective – HECFI Surpluses Returned to City of Hamilton

Some discussion ensued, including but not limited to the following:

- HECFI will likely ask for the same municipal contribution for 2010.
- The deficit comes out of the overall city budget surplus, and there is also a HECFI reserve if needed.
- Cancellations, cutbacks and reduced attendance contribute to the deficit.
- HECFI has money in capital reserve to use, which would not affect the 2010 capital budget.
- One controllable area is food and beverage service. HECFI will be looking at how to operate that area more efficiently.
- HECFI will also look at what things can be outsourced.
• Staff can investigate how much revenue has been generated from facility rentals and food and beverage service to the City of Hamilton.
• In 2010, when City meetings are moved back to City Hall, there will be a loss of income but also less expenditure, so there will be no negative impact.

On a motion, the presentation was received.

(h) Proposed Write-Offs of Outstanding Fines for Provincial Offences and Parking Violation (FCS09081/PED09235) (City Wide) (Item 8.3)

Kevin Christenson, City Clerk, provided an update on staff in the POA office. Mary Hazell, Senior Director of Parking and Bylaw Services, advised that this will be the last report on outstanding parking fines.

In response to questions from the Committee, Rob Rossini, General Manager of Finance and Corporate Services, advised that some other municipalities have not yet come up with a POA write-off policy and that several other municipalities have written off comparable amounts. Niagara did a large single write-off.

Wendy Mason, Supervisor of Provincial Offences Administration, advised that the City is able to suspend driver’s licences and, in such cases, the amounts are not written off. However, in other cases, dependant on the type of offence and where the addresses are unknown, the amounts have to be written off.

Councillor Pearson requested that staff provide the number of chronic offenders and the amount of the offences. The Supervisor of Provincial Offences Administration advised that she would e-mail that information.

(i) Municipal Democratic Renewal (Item 8.7)

Kevin Christenson, City Clerk, provided an introduction to the issue of electoral rebates.

Tony Fallis, Coordinator of Elections and Freedom of Information, provided additional information, including the costs of rebate programs in other municipalities and the factors affecting those costs, such as the formula used, whether trade unions and corporations are included, and whether a candidate’s family members are eligible for a rebate.

Some discussion ensued, including but not limited to the following:
• The decrease in cost of the rebate in Toronto between 2003 and 2006 was due to changes in their administrative process
On the federal and provincial levels, rebates are paid for through taxes. Under the Municipal Elections Act, Council determines who is eligible for rebates and can, therefore, decide to exclude trade unions and corporations. In light of the election next year, the last date on which a rebate program can be approved is December 31, 2009. Having Council make this decision could be a conflict of interest. Two Councillors commented that their constituents have not requested rebates for municipal election. Candidates need to raise funds to educate voters as to who they are and what they stand for and, if trade union and corporate contributions to election campaigns are eliminated, then this provides an alternative solution.

Committee passed the following motion:
That staff be directed to bring a report back to the Audit and Administration Committee outlining criteria and options for a municipal election contribution rebate program in Hamilton as well as a process for public consultation.

The motion CARRIED on the following recorded vote:
Yeas: Eisenberger, Bratina, Collins, Morelli, Powers, and Whitehead
Total:
Nays: Clark and Pearson
Total: 2

Councillor Clark clarified that the Committee did not want a report with recommendations, but rather an information report that presented some different options.

(j) Correspondence respecting Open Meter By-pass Valves submitted by Councillor Collins on behalf of Cynthia Delaney, Property Manager, 120 Quigley Road (Item 8.8)

Councillor Collins advised that he was contacted by the Property Manager of 120 Quigley Road because the bypass valve was broken and they were going to be charged a double rate penalty. The property management company is treating the broken valve as vandalism and is concerned that they are being charged the penalty. He requested that Committee waive the fee and direct staff to put a lock on the valve.

Staff advised that the fee can be based on historical consumption, rather than the double rate, but that placing a lock on the valve creates a logistical problem.
Committee passed a motion as outlined in Item 17 above.

(k) GENERAL INFORMATION/OTHER BUSINESS (Item 11)

(i) Outstanding Business List (Item 11.1)

(a) Item G: Whistle-blowing Protection (Due Date: July 7/09)

*Proposed New Due Date: October 7, 2009*

On a motion, the due date was amended.

(b) Item H: Local MPAC Costs

*Proposed New Due Date: Q0409*

On a motion, the due date was amended.

(c) Item L: Alcohol-related events in City-owned facilities (Due Date: June 2009)

*Proposed New Due Date: Nov. 4/09*

On a motion, the due date was amended.

(d) Item P: Trade Union Contributions to Municipal Election Campaigns (Due Date: July 7/09)

*To Be Removed*

On a motion, Item P was considered complete and removed from the Audit and Administration Committee’s Outstanding Business List.

(e) Item I: Litigation Reporting (No Due Date)

Peter Barkwell, City Solicitor, provided a verbal update. He advised that he will provide a report with generic overview of settlements and judgments with no particular identifiers so as to avoid MFIPPA issues. He also advised that, although it may make sense to provide similar reports with respect to risk management, the system may not allow it. Mr. Barkwell further advised that staff will provide reports with respect to solicitor-client fees, but that it will be structured to protect solicitor-client privilege.
(f) Item A: Civil Litigation Costs (Q0409)

Peter Barkwell, City Solicitor, advised that he may have further news before the end of the year, as developments take place at the Court of Appeal.

(ii) Process for Dealing with Deficient Contractors

Committee asked whether there was a process in place to deal with deficient contractors. Staff advised that Public Works have their own process for dealing with deficient contractors, as they tender contracts with respect to construction.

(I) PRIVATE AND CONFIDENTIAL (Item 12)

Committee moved into Closed Session at 11:00 a.m. pursuant to Section 8.1, subsections (e) and (f) of the City’s Procedural By-Law and Section 239 of the Ontario Municipal Act, as the subject matter pertains to litigation or potential litigation and advice that is subject to solicitor-client privilege, including communications necessary for that purpose.

Committee reconvened in Open Session at 11:02 a.m.

(i) Minutes of the Closed Session meeting held on June 17, 2009 (Item 12.1)

The minutes of the Audit and Administration Committee closed session meeting held on June 17, 2009 were approved as presented and will remain confidential and restricted from public disclosure in accordance with exemptions provided in the Municipal Freedom of Information and Protection of Privacy Act.

(ii) Litigation Matter between the City of Hamilton and Riverside Landscape Contractors Inc. (FCS09091/LS09012) (City Wide) (Item 12.2)

Committee passed a motion as outlined in Item 18 above.

(m) ADJOURNMENT (Item 13)

The Audit and Administration Committee adjourned at 11:04 a.m.

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Respectfully submitted,

Councillor Brad Clark, Chair
Audit and Administration Committee

Mary-Ann Meyer
Legislative Assistant
September 9, 2009
**Summary of 2001 POA, Parking and Bylaw Fine Write-offs for Council Report**  
*May 15, 2008*

## 2001 Write Offs Summary

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<th>Enforcement Code</th>
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