SUBJECT: Mewburn Sheldon Neighbourhoods Master Servicing Plan  
Approval to Expropriate for Sewer Easement South of Stone Church Road - Upper James to West 5th Street as Approved in 2004  
Environmental Assessment (PW04133a) - (Ward 8)

COMMENDATION:

(a) That the City Solicitor be authorized and directed to proceed with the necessary steps to expropriate an easement over the following lands for the purposes of sanitary sewer installations:

<table>
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<tr>
<th>Municipal Address</th>
<th>Owner</th>
<th>Description</th>
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| 1041 West 5th Street   | Kenneth Nichol Ramey         | Part 1 Plan 62R-15255  
City of Hamilton          | PIN #16912-0017 (LT)  
Roll # 251808095102480  |
| 1073 West 5th Street   | -DiCenzo Construction Company Limited  
City of Hamilton          | Part 2 Plan 62R-15255  
PIN #16912-0019 (LT)  
Roll # 251808095102450 |
| -Mascia Enterprises Limited  
City of Hamilton          |  
-Mary Finochio            |
| 1420 Upper James       | Rencoast                     | Part 3 Plan 62R-15255  
City of Hamilton          | PIN #16912-0017 (LT)  
Roll # 251808095104730  |

(b) That the City Solicitor, and the City Clerk sign an Application for Approval to Expropriate by the City of Hamilton to City Council for an easement over the lands shown as Parts 1, 2 and 3 on Plan 62R-15255, for the purposes of installing sanitary sewers;

(c) That the Application of the City of Hamilton, signed by the City Clerk, to expropriate an easement described in Sub-section (a) be authorized and that the
said Application be hereby received and that the City Solicitor be authorized and directed to cause the necessary notices in this application to be served on the registered owners of the lands affected and, for advertisement of the said Notice of Expropriation to be placed in The Hamilton Spectator, or other local newspaper, for three (3) consecutive weeks;

(d) That the City Solicitor be authorized to forward to the Chief Inquiry Officer any Request for Hearings received and to report to City Council such information;

(e) That, in the event no Requests for Hearings are received, the City Solicitor be authorized to introduce the Expropriation By-Laws to City Council;

(f) That the Manager of Real Estate, Planning and Economic Development Department, be authorized and directed to retain an independent fee appraiser to prepare an appraisal of fair market value of the easement lands described in Sub-section (a) to form the basis of compensation to be offered by the City and that the Manager of Real Estate, if and when necessary, be authorized and directed to negotiate compensation with the owners of the lands to be expropriated on the basis of the appraisal report;

(g) That all the costs of the expropriation be charged to Capital Budget Item No. 5160480483 West 5th Street Sanitary Sewer.

Scott Stewart, C.E.T.
General Manager
Public Works

EXECUTIVE SUMMARY:

A report (TOE02113/CS02054/PD02121) was approved by Council on June 18, 2002 permitting the expropriation of lands for a sewer easement south of Stone Church Road between Upper James and West 5th. However following this it was determined, in consultation with the Ministry of the Environment, since land acquisition would be necessary a Schedule B Municipal Class Environmental Assessment (EA) would be required. As such, staff completed an EA which was approved by Council on December 15, 2004 as report PW04133. The preferred location of the proposed sanitary and storm sewer easements for the Mewburn and Sheldon neighbourhoods are shown on Appendix A attached.

The easement is necessary to facilitate the construction of a sanitary sewer for residents on West 5th Street located between Rymal Road West and approximately 150 m south of Stonechurch Road West, many with failing septic systems. In addition to providing sanitary service to existing residents, the extension of a sanitary sewer will
facilitate planned future development along West 5th Street and lands to the west of West 5th. The easement will also accommodate a storm sewer that is required for the possible urbanization of West 5th Street and planned development along the street. To date the City’s Real Estate Section has been trying to purchase the required easements from the property owners. However, the property owners have signed options on the subject lands to prospective purchasers. These options have prohibited the City’s from negotiating purchase of the required properties for the easement. Therefore, it is recommended that expropriation proceedings commence as soon as possible to deal with the health concerns of the residents of West 5th. Real Estate will monitor this matter and should circumstances change, will negotiate the easement purchases.

BACKGROUND:
A Municipal Class Environmental Assessment (EA) was approved by Council on December 15, 2004 as Report PW04133 which provides the preferred location of the proposed sanitary and storm easements for the Mewburn and Sheldon neighbourhoods. Real Estate staff has been trying to acquire lands from the land owners, however, private developers have also approached the land owners in the area. The private developers have put options on the properties and this process could last up to a year. Considering the need to install sanitary servicing and the health concerns in the area it is recommended that expropriation proceedings begin.

Recommendations within the EA staff report allowed for the City to proceed with the acquisition of the lands and easements however did not provide direction with respect to land acquisition.

ANALYSIS OF ALTERNATIVES:
The EA process allowed for the investigation into alternative routes for the sewers and the preferred alternatives are shown in Appendix A. This alternative follows the set road pattern found in the approved Mewburn Neighbourhood plan. The proposed easement would be located within the future road allowance and would remain accessible at all times, for future maintenance, rehabilitation or replacement of the underground sewers.

Sufficient funds are available in Capital Budget Item No. 5160480483 Mewburn and Sheldon Neighbourhood Sanitary Trunk Sewer to make Official Offers of Compensation for the subject easements and to fund independent real estate appraisals of the subject lands.

Council approved funding through staff report PW04133 Recommendation (c) “That the grandfathered Municipal Act Project ID 5169880833 (MA - West 5th - 40m North of Rymal) be repealed and a new capital Project ID 5160480483 (Mewburn & Sheldon Neighbourhood Sanitary Trunk) be set up and funded 100% from Development Charges”.

POLICIES AFFECTING PROPOSAL:

This report does not require any changes to City policy.

CONSULTATION WITH RELEVANT DEPARTMENTS/AGENCIES:

The following were consulted in the preparation of this report:

Development and Real Estate Division, Planning and Economic Development Department

Legal Services, City Manager's Office

CITY STRATEGIC COMMITMENT:

The acquisition of an easement for the installation of sanitary sewers along West 5th Street supports the goals of a Healthy, Safe and Green City through the provision of an efficient and suitable method for both conveyance of storm drainage and sewage collection and treatment for existing residential and institutional development.