Audit and Administration Committee
REPORT 08-011
9:30 a.m.
Wednesday, September 17, 2008
Committee Room 207
Hamilton Convention Centre
One Summer’s Lane

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

Also Present:
A. Pekaruk, City Manager’s Office
P. Barkwell, Acting General Manager, Finance and Corporate Services
J. Kay, General Manager, Emergency Services
T. Tollis, J. Spiler, W. Thompson, A. Boakes, N. Kelly, Finance and Corporate Services
D. Edwards, Legal Services
M. Meyer, City Clerk’s Office

THE AUDIT AND ADMINISTRATION COMMITTEE PRESENTS REPORT 08-011 AND RESPECTFULLY RECOMMENDS:

1. FOI Quarterly Report (April 1 to June 30 2008) (CL08003(a)) (City Wide) (Item 5.1)

That Information Report CL08003(a) respecting FOI Quarterly Report (April 1 to June 30 2008) be received.

2. Development Charge Exemption to the Expanded Downtown Community Improvement Area (FCS08072) (Wards 1 and 2) (Item 6.1)
(a) That the City’s Development Charges (D.C.) Exemption Policy be applied to the Expanded Downtown Hamilton Community Improvement Project Area (refer to Appendix A of report FCS08072); and

(b) That the amending Development Charges By-law, attached as Appendix A to report FCS08072, being an amendment to Development Charges By-law 04-145, be passed and enacted.

3. **504802 Ontario O/A JCJ Contracting Respecting RFP C11-40-08** (approved at the September 3rd Audit and Administration Meeting) (Item 6.2)

That the presentation by Jim Grove and Linda Rothwell, JCJ Contracting, respecting RFP C11-40-08 be received.

4. **J.C.J. Contracting Delegation Request Regarding RFP C11-40-08** (FCS08087) (City Wide) (Item 8.1)

That Information Report FCS08087 respecting JCJ Contracting Request Regarding RFP C11-40-08 be received and no further action taken.

5. **Proposed Fair Wage Policy (FCS08044/HUR08012)** (City Wide) (Item 8.2)

(a) That the Fair Wage Policy and Fair Wage Schedule attached as Appendix ‘A’ hereto be approved; and

(b) That Internal Audit be directed to submit a Budget Enhancement Form for consideration by Council, as part of their 2009 Budget submission, to allow for the compliance auditing of 100% per cent of all City construction contracts to which the Fair Wage Policy applies.

6. **Apportionment of Taxes for 6-10 Greenstem Crescent, Stoney Creek** (FCS08001(e)) (Ward 11) (Item 8.3)

That the 2008 land taxes, in the amount of $1,694.31 for 6-10 Greenstem Crescent, Stoney Creek, (Roll #2518 003 010 12410), be apportioned and split amongst the three newly created parcels as set out in Appendix B hereto.

7. **Broker of Record for General Insurance Services (FCS08090)** (City Wide) (Item 8.4)

That the Broker of Record for Insurance Services Contract be awarded to Pearson Dunn Insurance Inc.
8. Grants Sub-Committee Report 08-004 (Item 8.5)

(i) Approved Convention Centre & Sports Tourism Grants: January 2007 to December 2008 (City Wide) (Item 1)

That the report entitled Approved Convention Centre & Sports Tourism Grants: January 2007 to December 2008, be received.

(ii) 2007 Annual Report – Community Partnership Program: Social and Community Services Category (GRA08021) (City Wide) (Item 2)

(a) That Information Report GRA08021 - Community Partnership Program: Social and Community Services Category be received.

(b) That the Annual Report for the 2007 Community Partnership Program: Social and Community Services Stream (attached as Appendix A to Report 08-004) be received.

(iii) Community Partnership Program Request. Special Events Category – Hamilton Waterfront Wingfest (GRA08023) (Ward 2) (Item 3)

(a) That the application, submitted by the Hamilton Waterfront Trust, for funding in the amount of $5,000 for the Hamilton Waterfront Wingfest, be approved.

(b) That funding for the Hamilton Waterfront Wingfest, in the amount of $5,000, be provided from the Grants Contingency Budget.

(iv) Revised Fee Waiver Eligibility Applicant Criteria (GRA08020) (City Wide) (Item 4)

(a) That the Revised Fee Waiver Eligible Applicant Criteria, attached hereto as Appendix C hereto, be approved.

(b) That Item “E” Fee Waiver Policy Standardization be considered complete and removed from the Grants Sub-Committee Outstanding business list.

(v) Mayors for Peace 2020 Vision Campaign (Opposition to Nuclear Weapons) (Item 5)

That the correspondence from Luc Dehaene, Interim Chair, Board of Directions and Mayor of Ypres, Belgium, requesting funding for the
Mayors for Peace 2020 Vision (opposition to nuclear weapons), be received.

9. **Motion Respecting the Payment of Property Taxes on 55 Bay Street South (Added Item 8.6)**

That the City of Hamilton formally request that the Minister of Public Works and Government Services Canada authorize the Federal Government to pay the remaining 2008 property taxes on 55 Bay Street South under section 7(a) of the Federal Real Property Regulations in the amount of $1,267,462.97.

**FOR THE INFORMATION OF COUNCIL:**

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

The Clerk advised of the following changes to the agenda:

(i) The third preamble of Appendix A to Item 6.1 has been amended to read as follows:

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AND WHEREAS the Council of the City of Hamilton, at its meeting of June 25th, 2008, has approved to enact a Bylaw to expand the Downtown Hamilton Community Improvement Project Area as set out therein; and approved policies to be included in the said Development Charges By-law 04-145 by way of an amendment thereto;

The copies in the agenda are correct, but the copies that were sent out to the Municipal Service Centres differ slightly.
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(ii) Appendix A to Item 8.2, Proposed Fair Wage Policy (Report FCS08044/HUR08012) has been revised with updates rates (pages 9-28 only).

(iii) Added as Item 8.4 is Broker of Record for General Insurance Services (FCS08090) (City Wide)

(iv) Added as Item 8.5 is Grants Sub-Committee Report 08-004

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 Audit and Administration Committee meeting held on September 3, 2008 (Item 3.1)

The minutes of the Audit and Administration Committee meeting held on September 3, 2008 were approved as presented.

(d) PUBLIC HEARINGS/DELEGATIONS

(i) Development Charge Exemption to the Expanded Downtown Community Improvement Area (FCS08072) (Wards 1 and 2) (Item 6.1)

A Public Meeting was held pursuant to Section 12 of the Development Charges Act, 1997, to present and obtain public input on the City’s proposed amendment to Development Charges By-law 04-145. Chair Pearson advised that Notice of the Public Meeting was advertised in the Spectator on August 27, 2008, inviting interested parties to make representations. She also advised that any person in attendance can make representations relating to the proposed amendments.

No members of the public came forward to address Committee.

As there were no members of the public wishing to speak to this issue, Councillor Pearson declared the public meeting respecting proposed amendments to the Development Charges By-law to be closed.

Committee expressed concerns with respect to foregone revenues and whether development charges could be reinstated at a later date. Staff advised that the exemptions are presented to Council as part of the rate budget; the purpose of the exemptions is to stimulate development; and the charges can be reinstated at a later date, once development has been stimulated and the incentive is no longer needed.

Committee approved the staff recommendation.

(ii) 504802 Ontario O/A JCJ Contracting Respecting RFP C11-40-08 (approved at the September 3rd Audit and Administration Meeting) (Item 6.2)

Jim Grove and Linda Rothwell from JCJ Contracting addressed the Committee. Written copies of the presentation were circulated and a copy was kept for the record. Linda Rothwell advised that the City
required an irrevocable letter of credit with a Request for Proposal of Contract, but there was no mention of a requirement that it be an original letter of credit. JCJ provided a faxed copy to the City. The company subsequently confirmed with a Royal Bank representative that a number and date of issue is sufficient for Proposal security, which can be found on a faxed copy. They advised that their bid was fair and within the City’s budget.

(e) DISCUSSION ITEMS

(i) J.C.J. Contracting Delegation Request Regarding RFP C11-40-08 (FCS08087) (City Wide) (Item 8.1)

Staff advised that a representative from Royal Bank advised the City not to accept a copy of the letter of credit, as the receipt of an original letter of credit guarantees that it exists and has not been altered or subsequently cancelled.

Committee asked whether JCJ realized that they needed to provide an original letter of credit. Jim Grove from JCJ Contracting verified that they were aware but made an error. He further advised that a faxed copy is still a legal document.

The Committee moved into Closed Session at 10:05 a.m. to receive advice that is subject to solicitor-client privilege.

Committee reconvened in open session at 10:20 a.m. and, on a motion, put the following recommendation:

That Information Report FCS08087 respecting JCJ Contracting Request Regarding RFP C11-40-08 be received and no further action taken.

The motion CARRIED on the following vote:
Yeas: Bratina, Clark, Collins, Morelli, Pearson, Powers
Total Yeas: 6
Nays: Whitehead
Total Nays: 1

(ii) Motion Respecting the Payment of Property Taxes on 55 Bay Street South (Added Item 8.6)

The Rules of Order were waived to allow the introduction of a motion respecting the payment of property taxes on 55 Bay Street South, as follows:
Whereas the Federal Government does not pay Property Taxes on any real property owned in Canada but do pay Payments in Lieu of Taxes (PILT);

And whereas the Federal Government purchased real property at 55 Bay St N (the Federal Building) from their landlord on June 30, 2008;

And whereas section 14 of the Federal PILT Act states “that no payment shall be made under this Act in respect of that property for any part of the taxation year during which it was acquired”;

And whereas there are $1,267,462.97 in commercial taxes owing as of September 30, 2008 that is no longer payable by the original owner and not payable under section 14 of the PILT act;

And whereas section 7(a) of the Federal Real Property Regulations reads “A Minister may in an acquisition, agree to pay, in addition to the purchase price of and other consideration for the real property, such amounts as the Minister may approve in respect of legal fees and disbursements of the real property owner that are reasonably incurred, and any taxes and other adjustments”.

Now be it resolved that the City of Hamilton formally request that the Minister of Public Works and Government Services Canada authorize the Federal Government to pay the remaining 2008 property taxes on 55 Bay Street South under section 7(a) of the Federal Real Property Regulations in the amount of $1,267,462.97.

Staff advised that the property at 55 Bay Street South was purchased by the federal government on June 30, 2008, on which date a tax installment was due. The federal government advised the City of Hamilton that, under the PILT Act, it does not have to pay taxes on properties acquired mid-year. The loss of tax revenue will cause a budget deficit for the City.

Committee requested that staff prepare a report for Council outlining which portion of the outstanding taxes is owed by the federal government and which portion is owed by the previous property owner.

(f) Minutes of the June 18, 2008 Closed Session Meeting (Item 12.1)

On a motion, the minutes of the Audit and Administration Committee closed session meeting held on June 18, 2008 were approved in open session, as presented. The Minutes will remain confidential and restricted from public
disclosure in accordance with exemptions provided in the Municipal Freedom of Information and Protection of Privacy Act.

(g) ADJOURNMENT (Item 13)

The Audit and Administration Committee adjourned at 10:35 a.m.

Respectfully submitted,

Councillor Maria Pearson, Chair
Audit and Administration Committee

Mary-Ann Meyer
Legislative Assistant
September 17, 2008