SUBJECT: Taxation Collection Measures During Economic Downturn (FCS09039) (City Wide)

RECOMMENDATION:

a) That the current Penalty and Interest charge of 15% be lowered to 12%, which is a monthly change of 1.25% to 1.00%;

(b) That the tax staff adjust their tax registration procedures as outlined in the attached Appendix A to report FCS09039; and

(c) That staff report back, as soon as possible after the June tax billing, as to the tax arrears status.

EXECUTIVE SUMMARY:

Due to recent economic news, the Committee of the Whole requested staff to report on potential tax measures available to assist taxpayers facing financial difficulty. Any tax policy changes need to be applied evenly amongst all taxpayers, regardless of economic circumstances, and within the confines of the municipal act.

There are current policies in place to assist the most vulnerable. The City offers to low income seniors and low income persons with disabilities, assistance through a tax deferral program. Taxpayers facing extreme sickness or poverty can apply for a
compassionate appeal to have part or all of their current years taxes forgiven. Commercial and Industrial taxpayers have the vacancy rebate program they can apply for. Charitable and non-profit organizations have a charitable rebate program to assist them. Seniors over 65 years of age have a senior’s rebate program based on income and assessment criteria set yearly by City Council.

We have also, over the years, set up many alternative payment processes to assist the taxpayers from the traditional four (4) yearly tax instalment payments. We have two (2) pre-authorized budget plans, a twelve (12) and a ten (10) month plan. We also have a pre-authorized instalment plan. We allow tax payers to pay at any chartered bank or financial institution. We also accept telephone or computer payments from those same institutions on behalf of their clients, our taxpayers. For those taxpayers struggling to keep up with their taxes, we have a pre-authorized arrears plan for those that can make regular monthly payments or we accept post-dated cheques, if they prefer that method.

The tax policy for collection of outstanding arrears has always been to work with the taxpayer to get the arrears paid off without having to register a tax lien on properties that are three or more years in arrears. We work with taxpayers on a daily basis providing information and advice. If the downturn continues to worsen, it is expected that our arrears will begin to grow.

A 12% penalty and Interest rate would have no effect on the current 2009 budget. There would be no staffing implications. A new By-Law would have to be passed.

Any rate below 12% would have an estimated $500,000 impact per percentage point reduction, to the current budget.

BACKGROUND:

Tax staff, as part of the yearly budget process, have been monitoring the penalty and interest charges applied to past-due taxes. Due to a more active collection policy, we have seen our dependence on penalty and interest revenue decline over the last few years from a high of $11,550,000 in 2003, to $8,200,000 in 2008. Due to trends noticed in the fall of 2008, the 2009 budget was raised slightly to $8,500,000. Taxpayers in arrears are faced with a 15% (1.25% per month) penalty/interest charge on any tax balance outstanding. When payments are applied, our policy allowed under the Municipal Act, is to first apply payment against the oldest outstanding penalty/interest, then against the oldest taxes, and then the oldest other charges. Examples of other charges are water arrears, property standards charges, etc. Penalty/interest is charged on both the taxes levied and other charges outstanding.

In reviewing penalty and interest revenues since last fall, it is becoming more apparent that more and more taxpayers are beginning to fall behind in their tax payments. With the recent economic news and outlook for the near future, staff is recommending a lowering of the penalty and interest rate to 12% from the current 15%. There would be no budget impact as the larger arrears expected, multiplied by the lower penalty and interest charge, will generate the 2009 budgeted amount, based on current projections. Any cuts
further to the penalty and interest rate would result in a $500,000 reduction to the budgeted amount for each percentage cut. Staff will provide a further update once the June tax billing payments have been processed.

Section 345 of the Municipal Act, 2001 allows the municipality to impose a late payment fee of up to 1.25% per month (15% per year), by way of a City By-Law. We know of no other municipality that charges less than 15% per year. In the 1980’s the City of Hamilton had lowered it penalty and interest rate to 13%, in response to the recession at that time. This rate was raised to 15% during amalgamation in 2001. Through close contact with the Association of Municipal Tax Collectors of Ontario, there are a number of Municipalities who may be looking to also reduce their Penalty and Interest rates. A review of late payment charges of the major utilities shows they apply a late payment fee of $1.50% per month, which is 19.56% per year.

The downward trend we had been seeing in penalty interest revenue could be attributed to good economic times from 2003 to late 2008, along with a more proactive approach to addressing taxes in arrears, particularly taxes three (3) years or more in arrears. Appendix A to report FCS09039 outlines the current process to arrears collection, as well as a recommended adjustment to the process to allow tax staff and taxpayers facing tough economic circumstances, the chance to work out adequate payment plans to avoid potential tax registration. It has always been the goal of the tax department to work with taxpayers to avoid any loss of property. As the tax burden grows it is prudent to keep up with collection efforts and hopefully make early contact with the taxpayer, to address the issues sooner, rather than later.

**ANALYSIS/RATIONALE:**

By lowering the penalty and interest percentage we will still expect to reach our budget target without impacting an increase to those taxpayers who are able to pay as taxes become due. The taxpayers who fall behind in arrears will face less of a burden with a lower penalty and interest percent, and will be able to catch up faster when their situation improves.

By continuing our current collection efforts, with the recommended modifications, we will be in a better position to offer advice and assistance by addressing arrears issues before they get un-manageable. Staff will better be able to use discretion in whether to continue with a tax registration depending on a taxpayers current economic circumstances. The current properties being registered for tax arrears are properties owing 2006 or earlier in taxes, well before the current economic downturn.

**ALTERNATIVES FOR CONSIDERATION:**

Further cuts to the penalty and interest rate below 12% would require a reduction to the budget or an offset through cost savings in another area. For each percentage cut there would be an estimated $500,000 impact to the budget.
FINANCIAL/STAFFING/LEGAL IMPLICATIONS:

A 12% penalty and Interest rate would have no effect on the current 2009 budget. There would be no staffing implications. A new By-Law would have to be passed.

Any rate below 12% would have an estimated $500,000 impact per percentage point reduction, to the current budget.

POLICIES AFFECTING PROPOSAL:


RELEVANT CONSULTATION:

Legal Services.

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
City is addressing tax payer implications during economic downturn.

Environmental Well-Being is enhanced. ☐ Yes ☑ No

Economic Well-Being is enhanced. ☑ Yes ☐ No
Put a strategy in place to ensure taxes continue to get paid during economic downturn.

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
TAX ARREARS COLLECTION PROCEDURES

General Information

Taxes are billed twice per year, an interim bill in February (based on 50% of the previous years taxes), and a final bill in June (once the budget process has been finalized).

Both billings have two (2) installments as approved by Council each year through By-Laws. The February billing is collected through installments due the last working day of February and April. The June installments are due the last working day of June and September.

Through By-Law the City also provides for a ten (10) and twelve (12) month pre-authorized budget payment plans.

Penalty and interest is applied the first day past due, and is applied the first of each month thereafter. Penalty and interest percent is authorized per By-Law in accordance with Section 345 of the Municipal Act, 2001.

Reminder Notices

Two reminder notices are sent each year, one in May and one in November. A charge is imposed per account to recover printing and mailing costs of each notice mailed, as approved in the City User Fee By-Law.

Past Due Arrears or Credits on account are also printed on the interim and final bills.

Tax Registration Procedures

Letters

In early January of each year, a letter is sent to all taxpayers three (3) years in arrears, advising them of potential tax registration procedures and giving them a date in which to pay by, or which to make arrangements. Taxpayers who pay, as a minimum, the third year in arrears get removed from the list. Taxpayers who make payment arrangements or reasonable promises get put aside for follow up on a monthly basis.

Taxpayers who do not respond get sorted as to largest amount owing down to the smallest amount. Staff review the accounts, work with legal staff on any questionable properties, and begin title searches on the largest amounts first. Once the searches have been returned, they are reviewed by the Tax Sale Officer and also reviewed and signed by the Taxation Director. A Tax Certificate (Lien) is then registered on title against the property.

Tax Registration

A title search identifies who is registered on title for a property, such as the registered owners, mortgage holders, lien holders (i.e. construction liens, Federal and or Provincial Liens). A Sheriff’s certificate is also provided, identifying any judgments against the owners. Once the search is done and we are assured that we are going after the correct owners and property, we register our Tax Arrears Certificate. A Tax Arrears Certificate becomes another lien registered against the property. Under Provincial legislation our lien takes precedence over all others, with the exception of the Federal or Provincial governments. The taxpayer has one (1) year from the date of registration of the tax lien to pay the amount in full before the City can commence a tax sale on the property.
Notice of Registration

Within sixty (60) days of registering a Tax Arrears Certificate on title, the City must send notice to each person identified in the title search. Where a property is residential we must address notice to each person registered on title as well as notices addressed to “spouse of” each person registered on title. These notices are all prepared and mailed out the same day.

Recommended Change (not required under the Municipal Act):

That letters to the Owners be sent immediately following the title search advising them that the property will be registered along with a list of who will be notified. They will be given a date in which to contact us to discuss their situation. Where contact has been made, and arrangements made to pay off the third year in arrears (as a minimum), the registration process will be stopped. If the third year in arrears cannot be paid due to their current economic situation, senior staff will use discretion in proceeding with the tax registration and attempt to work out some payment arrangements. Should the taxpayer continue to ignore the situation the property shall be registered and notices mailed within the prescribed time frames. If the property is deemed vacant or vacant land, the regular registration process will take place.

Final Notice

Within 310 days of the tax lien being registered on title, the City must issue final notices to all parties previously identified as being registered on title. This notice advises the City has the right to offer the property up for tax sale after the one (1) year period has been reached from the date of the initial Tax Arrears Certificate being registered on title.

Tax Sale

Once the one (1) year redemption period has expired, the Tax Sale Officer issues a final courtesy letter advising the taxpayers and lien holders of the date of the advertising and the set sale date. This is not a legislated procedure but a step implemented as one last attempt to rectify the situation. This has met with some success in getting properties paid off without having to go to sale. A date to contact by is indicated on the letter.

Any remaining properties are then taken to a tax sale committee consisting of Taxation, Legal, Planning, Real Estate and Property Standards. The Brownfield Coordinator and or the Downtown Renewal Officer of Economic Development are also brought in on a case need basis. Each property is looked at to see where there may be cross files and issues that need to be dealt with. Where a property is identified as being owner occupied or where we are unsure of the exact use or location, the Real Estate staff person will visit the site and take pictures. Staff also cross references properties with GIS mapping as to location, and with the Municipal Property Assessment Corporation to get a handle on the ages of the property owners.

When all else fails, the City advertises the property for four (4) consecutive weeks in the local newspaper and once in the Ontario Gazette, as prescribed under the Municipal Act. The tax sale takes place after 10 day’s have expired since the last advertisement was placed.