Audit and Administration Committee  
AMENDED REPORT 08-014  
9:30 a.m.  
Wednesday, November 19, 2008  
Committee Room 207  
Hamilton Convention Centre  
One Summer’s Lane

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

Absent with Regrets:  
Councillors R. Powers (City Business) and C. Collins (City Business)

Also Present:  
J. Rinaldo, Acting City Manager  
S. Stewart, General Manager, Public Works  
P. Barkwell, Acting General Manager, Finance and Corporate Services  
A. Pekaruk, City Manager’s Office  
T. Bendoe, Public Health  
R. Male, Finance and Corporate Services  
H. Hale Tomasik, L. Fontana, Human Resources  
G. Davis, J. Harnum, B. Shynal, B. Goodger, J. Mater, Public Works  
K. Christenson, City Clerk  
S. Hayden, M. Meyer, City Clerk’s Office

THE AUDIT AND ADMINISTRATION COMMITTEE PRESENTS REPORT 08-014 AND RESPECTFULLY RECOMMENDS:

1. FOI Quarterly Report (July 1 to September 30, 2008) (CL08003(b)) (City Wide) (Item 5.2)

That Information Report CL08003(b) respecting FOI Quarterly Report (July 1 to September 30, 2008) be received.

Council – November 26, 2008
2. Reserve/Revenue Fund Investment Performance Report – September 30, 2008 (FCS08082(a)) (City Wide) (Item 5.3)

That Information Report FCS08082(a) respecting Reserve/Revenue Fund Investment Performance Report – September 30, 2008 be received.

3. Tax Appeals under Section 357 of the Municipal Act (2001) (FCS08008(h)) (City Wide) (Item 5.4)

That the tax write-offs processed under Section 357 of the Municipal Act, 2001, in the amount of $58,539.70 be approved as set out in Appendix "A", attached hereto.

4. Quarterly Status Report on the use of Policy #10– Emergency Purchasing and Policy #11– Negotiations for the 3rd Quarter 2008 (FCS08043(b)) (City Wide) (Item 5.5)


5. Monthly Status Report of Tenders and Requests for Proposals for September 11, 2008 to October 22, 2008 (FCS08026(e)) (City Wide) (Item 5.6)

That Report FCS08026(e) respecting Monthly Status Report of Tenders and Requests for Proposals for September 11, 2008 to October 22, 2008 be received.

6. 2008 Annual Accessibility Plan – Ontarians with Disabilities Act Report (FCS08103) (City Wide) (Item 7.1)

   (a) That the 2008 Annual Accessibility Plan for the City of Hamilton attached as Appendix "A" to Report FCS08103 be approved and be made available to the public; and

   (b) That the Advisory Committee for Persons with Disabilities be thanked for their advice and contribution towards the completion of the accessibility plan.

7. Use of Standby, Call In/Out & Overtime (Public Works) – Audit Report 2008-02 (CM08025) (City Wide) (Item 7.2)

   (a) That Report CM08025 respecting Audit Report 2008-02, Use of Standby, Call In/Out and Overtime (Public Works), be received; and
(b) That the management action plans as detailed in Appendix “B”, attached hereto, be approved and the General Manager of Public Works direct the appropriate staff to have these plans implemented.

(c) That copies of the recommendations in Appendix “B”, attached hereto, be forwarded to all divisions of the City of Hamilton.

8. Protection for Whistleblowers (Added Motion)

That staff review whistle blowing protection in other jurisdictions and forward a draft by-law covering elected positions and staff for the consideration of Council.

9. Assessment of Greenhill Subdivision Flooding Liability Claims From December 1, 2006 (Ward 5) (FCS08105) (Item 8.1)

That Report FCS08105 respecting Assessment of Greenhill Subdivision Flooding Liability Claims from December 1, 2006 be referred back to the Audit and Administration Committee for discussion.

10. Green Venture Funding (FCS08104) (City Wide) (Item 8.2)

(a) That report FCS08104, Green Venture Funding, be received for information.

(b) That item “K” be identified as complete and removed from the Audit and Administration Committee Outstanding Business List.

11. Lease Renewal for Public Health Services and Community Services – 35 King Street East / 1 Hughson Street North – Park Place Real Estate Limited Partnership (PED08269/BOH08042/ECS08045) (Ward 2) (Item 8.3)

(a) That existing lease(s) with Park Place Real Estate Limited Partnership be renewed subject to the following terms and conditions in the premises known as 35 King Street East / 1 Hughson Street North, Hamilton:

(i) Term: Five (5) years commencing April 1, 2008, and terminating on March 31, 2013. Either tenant shall be entitled to cancel this lease upon written notice to the Landlord of not less than six months (after the first year of occupation).

(ii) Property: 35 King Street East / 1 Hughson Street North, Hamilton, comprising all of Suite 200 on the Second Floor having an area of 3,395 rentable square feet; all of Floors 3, 4 and 5, having a combined area of 39,300 rentable square feet; all of the Sixth Floor, having an area of 6,513 rentable square feet. The
total area, determined according to BOMA 1996 measurement standards is 49,208 square feet of office space.

On the Second Floor but separate from the City’s office space, the City also leases 1,350 square feet of storage space.

(iii) Rental Rate: From the date of commencement, meaning from April 1, 2008, the City shall continue to pay rent based on $19.50 per square foot plus G.S.T. for the area occupied as office space. The Second Floor storage space will also remain at the current rent which is $6.00 per square foot plus GST.

(iv) Operating Costs: The City shall be responsible for its share of the actual operating costs over the 2007 Base Year.

(b) That all rent and operating costs shall be charged to Account No. 791403-55358.

(c) Special Conditions:

(i) The Landlord shall replace, where required, worn carpeting with 28 oz commercial grade carpet or equivalent value floor covering at its own cost including moving the existing furniture and completing the work after hours.

(ii) The Landlord will reimburse the City for 50% of the costs of installation of the humidification system which was installed by the City in 2006 at a cost of $27,551.15.

(d) That the Mayor, General Manager, Finance and Corporate Services and City Clerk be authorized and directed to execute the Lease in a form satisfactory to the City Solicitor.

12. Audit Report 2008-03 – Police Service Accounts and Revenue Processes (CM08027) (City Wide) (Item 8.4)

That Report CM08027 respecting Audit Report 2008-03, Police Service Accounts and Revenue Processes, be received.

13. HECFI - Cash Handling and Revenues - Audit Report 2008-04 (CM08026) (City Wide) (Item 8.5)

(a) That Report CM08026 respecting Audit Report 2008-04, HECFI – Cash Handling and Revenues, be received; and

(b) That the management action plans as detailed in Appendix “C”, attached hereto, be approved and the Chief Executive Officer, HECFI,
be requested to direct the appropriate staff to have these plans implemented.

FOR THE INFORMATION OF COUNCIL:

(a) CHANGES TO THE AGENDA (Item 1)

The Clerk advised of the following changes to the agenda:

(i) Item 8.6, Use of Standby, Call In/Out & Overtime (Public Works) – Audit Report 2008-02 (CM08025) (City Wide), is being moved to the presentation section of the agenda and will become Item 7.2, as it now has a formal presentation accompanying it. The remaining discussion items are renumbered accordingly.

(ii) Added as Item 12.2 is a Private and Confidential verbal update respecting a contractual matter.

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 Audit and Administration Committee meeting held on November 5, 2008 (Item 3.1)

The minutes of the Audit and Administration Committee meeting held on November 5, 2008 were approved as presented.

(d) ADVISORY/SUB-COMMITTEE/VOLUNTEER COMMITTEE MINUTES (Item 5.1)

The following minutes were received:

(i) GBLT Advisory Committee – June 4, 2008 (Item 5.1.1)

(ii) GBLT Advisory Committee – July 2, 2008 (Item 5.1.2)

(iii) GBLT Advisory Committee – September 3, 2008 (Item 5.1.3)

(iv) Status of Women Committee – September 25, 2008 (Item 5.1.4)

(v) Committee against Racism – September 23, 2008 (Item 5.1.5)
Maxine Carter and Jane Lee, Customer Service, Access and Equity, made a PowerPoint presentation respecting the 2008 Annual Accessibility Plan. Copies of the presentation were circulated and a copy was submitted for the record.

Highlights of the presentation included:
- What is the Ontarians with Disabilities Act, 2001, S.O. c. 32 (Bill 125)?
- Duties of Municipalities under Section 11
- Duties of the Advisory Committee
- What must the Accessibility Plan include?
- Accessibility for Ontarians with Disabilities Act (AODA), 2005, S.O. c. 11, s. 1
- Standards development committees under the AODA
- Achievements in 2008
- What’s new for 2009?
- Customer Service Standard, O. Reg. 429/07
  - What is required
  - Procedures for serving people with disabilities
  - Training
- Feedback and Complaints Tracking
  - Feedback Process
  - Reporting and Enforcement
- Where are we now?
  - Policy Development
  - Procedures Development

Some discussion ensued. Comments included but were not limited to the following:
- Need to ensure that the Province provides funding for the implementation of the new standards.
- If the Built Environment standard does not address sidewalk requirements, it is up to the municipality to set a standard.
- The disability rate in Hamilton is higher than the provincial average partially because of the services offered in Hamilton.

Staff were requested to provide a one-page overview respecting employment initiatives and other causes for the increase in the employment rate for persons with disabilities in Hamilton.

On a motion, the presentation was received.
(f) **Use of Standby, Call In/Out & Overtime (Public Works) – Audit Report 2008-02 (CM08025) (City Wide) (Item 7.2)**

Lora Fontana, Director of Employee and Labour Relations, and Bryan Shynal, Director of Operations and Maintenance, made a PowerPoint presentation respecting Item 1 of Appendix “A” of Report CM08025. Copies of the presentation were circulated and a copy was submitted for the record.

Highlights of the presentation included:
- An overview of the applicable portions of the Employment Standards Act, 2000 (ESA)
- Exceptions to overtime limits under the ESA
- Status of City Unions
- Other municipalities
- Penalties for failing to comply with the ESA
- Provisions for contracting out work
- Provisions for emergency situations
- Efforts to date
- Impacts of no Overtime Agreement with CUPE 5167
- Program impacts
- Programs at risk of non-compliance
- Options

Committee requested that staff provide records at the December 3, 2008 Audit and Administration Committee meeting to show that the City has done due diligence since amendments to the ESA were passed in 2004 to negotiate overtime agreements between the City and City Unions.

Ann Pekaruk, Director of Audit Services, provided an overview of the report and advised that a follow-up audit would be completed within 12-18 months.

Committee requested that staff provide information respecting the number of people with negative overtime balances and the number of negative hours of overtime there were on December 31, 2007.

Report CM08025 was amended by adding recommendation (c) as follows:

(c) That copies of the recommendations in Appendix “A” of Report CM08025 be forwarded to all divisions of the City of Hamilton.

(g) **Assessment of Greenhill Subdivision Flooding Liability Claims From December 1, 2006 (Ward 5) (FCS08105) (Item 8.1)**
Councillor Whitehead advised that he received fewer flooding complaints in his ward this year. The Acting City Manager agreed to investigate variations in flooding experiences from year to year and report back to Committee.

(h) **Green Venture Funding (FCS08104) (City Wide) (Item 8.2)**

Councillor B. Clark wished to be recorded as opposed.

(i) **HECFI - Cash Handling and Revenues - Audit Report 2008-04 (CM08026) (City Wide) (Item 8.5)**

Councillor Clark requested that staff provide additional information respecting the variances between funds on hand and the funds noted on the Ticketmaster reports.

(j) **Amendments to the Assessment Act (Referred by Council at its meeting held on October 29, 2008) (Item 8.7)**

On a motion, this item was tabled to the December 3, 2008 Audit and Administration Committee meeting to allow Councillor Whitehead time to discuss it with staff.

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

(i) **Outstanding Business List**

Funds received by the City with respect to the Philips/Taro, now Newalta Certificate of Approval
Due Date: November 19, 2008
Revised Due Date: January 21, 2009

On a motion, the Outstanding Business List was amended accordingly.

(ii) **Provincial-Municipal Service Delivery**

Joe Rinaldo, Acting City Manager, advised Committee that staff are investigating options, including those referred by Councillor Clark at the November 12, 2008 Council meeting, and will submit a draft report to Committee members. He further advised that he would consult with Councillor Clark prior to bringing it forward.

(l) **PRIVATE AND CONFIDENTIAL (Item 12)**
(i) Minutes of the November 5, 2008 Closed Session Meeting (Item 12.1)

The minutes of the Audit and Administration Committee closed session meeting held on November 5, 2008 were approved in open session, 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) Private and Confidential Matter respecting Contractual Relations (Added Item 12.2)

The Committee moved into Closed Session at 11:41 a.m. pursuant to Section 8.1, subsections (b), (d), (e), and (f) of the City’s Procedural By-Law and Section 239 of the Ontario Municipal Act, as the subject matter pertains to contractual relations with a supplier, potential litigation, the receiving of solicitor-client advice, reference to identifiable individuals, and reference to personnel/labour relations matters.

The Committee reconvened in Open Session at 11:58 a.m.

Committee received a verbal update in camera with nothing to report in Open Session.

(m) ADJOURNMENT (Item 13)

The Audit and Administration Committee adjourned at 11:59 a.m.

Respectfully submitted,

Councillor Maria Pearson, Chair
Audit and Administration Committee

Mary-Ann Meyer
Legislative Assistant
November 19, 2008