SUBJECT: Subsidiary Development Corporation for City-Owned Employment Lands (PED09326) (City Wide)

RECOMMENDATION:

(a) That Report PED09326, “Subsidiary Development Corporation for City-Owned Employment Lands” be received.

(b) That the item respecting the establishment of an Employment Land Holding Company be identified as completed and removed from the Economic Development and Planning Committee’s Outstanding Business List.

EXECUTIVE SUMMARY:

Staff was directed by Committee and Council to prepare a report on the request by a citizen to consider the establishment of an “Employment Land Holding Company to hold and transact employment lands owned by the City”. Staff reviewed both historical and current practices in Hamilton in addition to providing a brief overview of how other municipalities conduct their economic development efforts related to employment lands and business attraction.

At this time, staff are recommending that this course of action not be pursued because of a number of factors, that include: the absence of a formal Council policy/direction on the land banking of Greenfield properties; the restrictions on land supply resulting from...
the Provincial Places to Grow and Greenbelt legislation; the existing financial position of the City of Hamilton; and, the cost of establishing a separate corporation for the disposition of a very small amount of existing City-owned employment lands.

**BACKGROUND:**

On September 16, 2008, Mr. Keith Beck made a presentation (see Appendix A to Report PED09326) to the Economic Development and Planning Committee regarding the creation of an Employment Land Holding Company to manage the acquisition and disposition of City-owned employment lands. Committee discussed the matter and had further information supplied by staff. Committee determined that the ideas proposed by Mr. Beck should be investigated further. The date of December 1, 2009 was established as the deadline for staff to report back to Committee. Unsatisfied with this timeframe, Mr. Beck sent correspondence to City Council requesting that this report be expedited and return to Committee sooner than the set date. At the City Council meeting of November 4, 2008, Council agreed with the decision of the Economic Development and Planning Committee for a December 1, 2009 deadline.

In Mr. Beck’s submission, he identified a number of issues and concerns. The three (3) major ones being as follows:

- “Realization of as much value from assets under the City’s control as possible”
- The City’s history of “Buying high and selling low” of employment lands
- The formation of “a separate company, owned by the City to hold and transact such lands, would allow it to acquire and sell the property for the same prices that the private sector could”

**ANALYSIS/RATIONALE:**

The first point of the “**Realization of as much value from assets under the City’s control as possible**” is already a mandated goal of the Economic Development and Real Estate Division. Further, the City of Hamilton has long acknowledged the need to realize the maximum value of its assets which is why it is a fundamental deliverable of both the City’s Portfolio Management Committee and the Real Estate Section. The City of Hamilton is also bound by a “Bonusing” provision of the *Ontario Municipal Act* which prohibits the sale of City-owned assets to the private sector at anything less than fair market value. Therefore, prior to a property’s disposition, an appraisal has to be undertaken on City-owned properties before being declared surplus to the City’s needs.

It must be recognized that the City also has a role to play in economic development. Unlike the private sector, the municipality derives its greatest benefits not from the revenues made on land sales but the resulting non-residential tax assessment, the jobs created and/or retained for local residents, the economic benefits of new construction, and the other economic development spin-offs that result from the disposition of these non-residential assets. Based on this mandate, there is some very minor flexibility that Council has in regards to the sale price per acre of non-residential land sales especially for large parcels that would see a significant square footage and number of jobs located
on the property. Consideration of these benefits would be lost if an “Employment Land Holding Company” was responsible for City-owned assets and had the decision making authority regarding their disposition. In a competitive plant location environment that exists in the current economic climate, realizing as much value as possible on an asset represents more than just the sale price per acre or property.

In regards to the second point of “Buying high and selling low”, there is some element of truth in this statement. In the 1980s and early 1990s, Economic Development was a function of Regional Government and at that time did acquire a number of strategic parcels of land. It is definitely debatable of whether or not they exceeded fair market value. What is certain, however, is the significant cost of servicing and development of these lands which set an artificially high price per acre that was unattractive to investment. The employment lands located in the City’s Tech Park at the southwest quadrant of Highways #5 and #6 is a prime example.

On two (2) occasions after the Regional Municipality’s acquisition and servicing of properties for employment lands, there were major downturns in the economy. These lands were not selling simply because the total cost of their acquisition and development significantly exceeded the prevailing fair market values at the time. In an effort to stimulate the local economy, staff were directed by Council to reduce the price and attract new business to the Region. Consequently, many of the lots in the Region's business parks were sold not below market value but instead below the cost of acquisition and development.

This second point of “Buying High and Selling Low” has sparked countless numbers of debates at both Regional Council and, after amalgamation, at City Council. Most centered around one basic issue, that being whether or not the municipality should be involved in land banking. A direction has never been determined for Hamilton. This is a result of the fact that they did not have the benefit of a comprehensive economic analysis to determine whether the assessment, jobs, construction, etc. created in City-owned business parks justified the cost of land assembly and development. However, what Council members and the public were fully aware of was that neighbouring municipalities, such as Brantford and Cambridge, were aggressively investing in employment lands and not only attracting new business from the Greater Toronto Area (GTA) but out of Hamilton as well.

In this effort to increase new non-residential assessment, Hamilton found and still does find itself in a very difficult position. No municipalities, to the east of Hamilton or in the GTA, currently own or have owned Business Parks. They left employment land development entirely up to large private sector development companies that assembled and serviced huge tracts of land adjacent to the 400 series highways and major arterial roads. It was simply too expensive for cities and is not considered a core service of municipal government. The role of the economic development departments and organizations in the GTA was instead simply to assist in the marketing of these properties.

Conversely, to the west of Hamilton in Brantford, Cambridge, Woodstock, etc., the municipality assumed the roles of both developer and marketing organization because
the private sector was not interested in this type of land development due to the slow and poor return compared to residential development. Since the demand, raw land prices and costs of development were significantly less outside the GTA, there was little motivation for these development companies to undertake these projects. However, these municipalities quickly discovered that they could offer an extremely cost competitive location to GTA-based companies (lower land cost and Development Charges) and then experience all the benefits of business attraction.

The dilemma then that Hamilton faces is directly a function of its location. Business park development to the east of Hamilton is market driven and handled exclusively by the private sector whereas to the west of the City it is all municipally led. So the question that Hamilton Region and City Councils have debated for years remains whether or not the City should be in the business of land banking and development or not.

At the April 9, 2008, Hamilton City Council meeting, the Economic Development and Planning Committee Report PED07043(b) and its recommendations regarding the Brownfield Land Banking Study was approved. This comprehensive study was completed by Connestoga Rovers and Associates and concluded that the City of Hamilton should not pursue land banking of Brownfield properties. The report cites two major reasons: 1) the absence of legislation protecting municipalities from the environmental liabilities of ownership of Brownfields; and 2) the absence of any upper tier funding to support acquisition and redevelopment of Brownfields. In terms of Greenfield properties, since amalgamation, the City of Hamilton has only acquired strategic parcels of land adjacent to the John C. Munro Hamilton International Airport (HIA) and within the North Glanbrook Industrial Business Park (NGIBP). This land assembly has been for the reasons of runway extensions, Airport operations, or arterial road (Dartnall) development.

Finally, the third issue raised by Mr. Beck concerning the formation of “a separate company, owned by the City to hold and transact such lands, would allow it to acquire and sell the property for the same prices that the private sector could” is clearly a matter of Council policy and economics. Before this proposal can even be entertained, Council would need to determine if in fact it wants to be in the business of developing industrial parks. A decision has already been made not to land bank Brownfield properties but no specific policy on Greenfield properties has yet been established. However, there really is little logic in pursuing this course of action since because of Places to Grow there are only two (2) areas remaining in Hamilton for Greenfield development – the Airport Employment Growth District (AEGD) and the North Glanbrook Industrial Business Park (NGIBP). It should also be noted that City staff recently sold out the entire City-owned Phase 5 of the Ancaster Industrial Park without any listing agents or development corporation in place.

Presently, the City only owns less than 100 acres in the NGIBP and the City land owned at the Hamilton International Airport resides not in the Airport Employment Growth District but within the boundaries of the Airport lands and are therefore subject to the terms of the 40 year lease with Tradeport. Unfortunately, the majority of property in both of these areas (NGIBP and AEGD) is already secured by land developers and
presently not on the market. If the City was to commence land assembly in these locations it would only serve to confirm Mr. Beck's second point of “Buying High”.

On Tuesday, September 15, 2009, Committee of the Whole approved Report PED09200/CM09011 regarding the Creation of a Waterfront Development Corporation. Staff were directed to report back to Council on the specific mandate, governance structure, staffing, and financial funding model for a Hamilton Waterfront Development Corporation and also, the parameters of a legal agreement that would be required to establish such a corporation. This model was proposed for a number of reasons but primarily because of the inherent complexity and financial risks associated with this type of redevelopment much of which involves property acquisition, servicing, and Brownfield redevelopment. Additionally, the City could assume a “catalyst” role where no private sector company(s) would assume the role in a defined geographic area.

In summary, the creation of a separate company / subsidiary corporation to sell the current amount (<100 acres) of City-owned land simply does not make economic sense at this time. Should Council decide to pursue a land banking strategy and perhaps the formation of a separate development corporation exclusively for this purpose, then it is recommended that: 1) it establish and fund a reserve for property acquisitions; and 2) that a comprehensive cost / benefit analysis of the City’s / Region’s past performance in industrial lands sales and development be conducted and presented to Council.

**ALTERNATIVES FOR CONSIDERATION:**

That the formation of an “Employment Land Holding Company” be thoroughly investigated and a Request For Proposal be issued to have the analysis independently completed.

**FINANCIAL/STAFFING/LEGAL IMPLICATIONS:**

*Financial:* None  
*Staffing:* None  
*Legal:* None

**POLICIES AFFECTING PROPOSAL:**

N/A

**RELEVANT CONSULTATION:**

Legal Services Division, Corporate Services Department  
Airport and Industrial Parks Division, Planning and Economic Development Department
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

Environmental Well-Being is enhanced.  ☐ Yes  ☑ No

Economic Well-Being is enhanced.  ☐ Yes  ☑ No

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

NE:db
Attach. (1)
Subject: FW: Employment Land holding subsidiary proposal

-----Original Message-----
From: keith beck [mailto:]
Sent: Saturday, August 09, 2008 1:33 PM
To: clerk@hamilton.ca
Subject: Employment Land holding subsidiary proposal

NOTE: This is the same delegation request that was recently denied by committee. While reviewing my correspondence and committee's decision, I realized that terminology used to describe the activities of the proposed venture caused it to be confused for issues already dealt with by this council. I apologize for my error, it was mine alone. Please accept the edited request below for committee's consideration.

Thank you,

Keith M. Beck

To: Mayor Eisenberger and the Councillors of Hamilton City Council
   c/o Kevin Christenson, City Clerk
   Hamilton City Council

Sir,

In order for the City of Hamilton to realize the greatest financial benefit from what it has been granted by the Province of Ontario, in regard to employment lands and primarily with the North Glenbrook Business Park, I propose the City Investigate and create a subsidiary corporation to hold and transact in its name, City owned employment lands.

Like the Hamilton Realty Capital Corporation, this separate entity would allow the City to acquire new lands at reasonable prices, and more importantly vend existing lands without the subsequent increase in tax revenue being used to argue down the sale price. Such an administrative structure would allow the City to realize the full potential capital gain on newly serviced employment lands and end the history of "buying high and selling low" when investing in employment lands.

To this end, I request that this correspondence be forwarded to the Economic Development and Planning committee, along with my delegation request, in order for me to make a presentation on the matter, should the committe choose to receive it.

Thank you for your assistance.

Keith M. Beck

Tel: [REDACTED]
E-mail: [REDACTED]

Appendix A to Report PED09326
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EMPLOYMENT LAND HOLDING COMPANY DELEGATION BRIEF

Thank you for receiving my delegation. Its purpose is to gain your agreement on the value of having staff investigate the feasibility, cost, and benefits of creating a corporate subsidiary to the City of Hamilton, to hold and transact employment lands owned by the City.

While there has been success recently in gaining more funding from senior levels of government for infrastructure delivered by the municipality, recent reports show that the costs and scope of infrastructure needs to be met by the City increase even further.

To relieve the tax base of as much of such costs, and to ensure the community realizes its strategic goals in economic development, it's not only desirable but crucial that we realize as much value from assets under the City’s control as possible. An opportunity to do so lies with the employment lands under City ownership.

Past experience in vending City owned employment lands has shown two main deficiencies: 1. When the City has sought to acquire land for development as employment land it has usually paid a higher price than a private sector investor would have. And 2. When it has sold such land, the subsequent increase in tax revenue has been used to bid down the sale price. Leading to transactions for the municipality characterized as “Buying high and selling low”. Wealth from the City and its tax base, where effectively transferred to the property owners of subject lands either previous or subsequent to the City’s ownership. Instead of realizing a gain from the improved property, the municipality realized net losses.

No surprise then that investing in employment lands and trying to secure the gain from property improvement for the benefit of the whole community fell out of favor with municipalities and their councils. I would argue that the failure was tactical and not strategic. That loss instead of gain was realized because the wrong administrative structure for the transaction was used. And that the right structure would let the City realize the same gains that a private sector investor would expect from such land improvement.
A separate company, owned by the City to hold and transact such lands, would allow it to acquire and sell property for the same prices that the private sector could. Allowing the City to realize the largest gain possible from its holding of employment lands.

Such an administrative arrangement would also facilitate the reinvestment of such gains in other employment zone property (either green or brownfield) and over time build a source of capital funding from gains to be invested in the rest of the community, as directed by the council of the day, when employment zone needs have been fulfilled.

In summary, a holding company will allow the City to transact the holdings it already has for maximum value, reinvest gains efficiently in new holdings should it choose to and create out of the subsequent gains a source of funding to contribute to new infrastructure, brownfield remediation or reassembly, or other capital priorities of the City in the future.

I hope you agree that there is value to the City in this direction and it’s worth pursuing. With the North Glanbrook business park soon to be serviced, I hope you agree that it’s worth pursuing soon.

Thank you for your time today. Please feel free to contact me with any questions you would like me to address.

Keith M. Beck

Management Consultant

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