3RD REPORT OF THE BOARD OF CONTROL

Meeting held on January 14, 2009 commencing at 10:01 a.m.

PRESENT: Mayor A. M. DeCicco-Best (Chair), Deputy Mayor T. C. Gosnell, Controllers G. Barber, W. J. Polhill and G. Hume; and L. Rowe (Secretary).


I YOUR BOARD RECOMMENDS:

1. (1) That, on the recommendation of the Director, Wastewater and Treatment, the following actions be taken with respect to the construction of the Dingman Creek Transfer Pumping Station Project (Project No. ES3073), namely:

   (a) the bid submitted by Elgin Construction, 140 Burwell Road, St. Thomas, at its tendered price of $631,772.61 (excluding GST), BE ACCEPTED; it being pointed out that the bid submitted by Elgin Construction was the lowest of ten (10) bids received and meets the City's specifications and requirements in all areas;

   (b) the financing for this project BE APPROVED as set out in the Sources of Financing Report attached hereto as Appendix "A";

   (c) the Civic Administration BE AUTHORIZED to undertake all the administrative acts that are necessary in connection with this project; and

   (d) the approval given herein BE CONDITIONAL upon the Corporation entering into a formal contract or issuing a purchase order for the material to be supplied and the work to be done relating to this project (Tender 08-81). (W07-00)

2. (2) That, on the recommendation of the Director, Wastewater and Treatment, the following actions be taken with respect to the Greenway Pollution Control Centre Electrical Upgrades – Phase IV (Project No. ES5334), namely:

   (a) the bid submitted by Tiltran Services Inc., RR# 3- 14719 Bayham Drive, Tillsonburg, at its tendered price of $369,080 (excluding GST), BE ACCEPTED; it being pointed out that the bid submitted by Tiltran Services Inc. was the lowest of four (4) bids received and meets the City’s specifications and requirements in all areas;

   (b) the financing for this project BE APPROVED as set out in the Sources of Financing Report attached hereto as Appendix "A";

   (c) the Civic Administration BE AUTHORIZED to undertake all the administrative acts that are necessary in connection with this project; and

   (d) the approval given herein BE CONDITIONAL upon the Corporation entering into a formal contract or issuing a purchase order relating to this matter (Tender 08-88). (W06-00)

3. (3) That, on the recommendation of the Director of Fleet, Facilities and Departmental Resources, the following actions be taken with respect to plumbing services at City owned/managed facilities, namely:

   (a) the contract with Westminster Mechanical, a Division of 259740 Ontario Ltd., 45286 Ferguson Line, Belmont, BE EXTENDED for an additional six (6) month term at the current rates;
(b) the Civic Administration **BE AUTHORIZED** to undertake all the administrative acts that are necessary in connection with this contract; and

(c) the approval given herein **BE CONDITIONAL** upon the Corporation entering into a formal contract or issuing a purchase order, or contract record, relating to the subject matter of this approval. (A03-00)

4. (4) That, on the recommendation of the General Manager of Finance and Corporate Services and Acting City Treasurer, the following actions be taken with respect to the renewal of an existing contract for the Supply and Delivery of Photocopy and Fine Paper, namely:

(a) the existing contract with Xerox Canada Limited, 1000-150 Dufferin Avenue, London, **BE EXTENDED** for an additional (1) one year period;

(b) the existing contract with Buntin Reid, 1330 Courtney Park Drive, Mississauga, **BE EXTENDED** for an additional (1) one year period;

(c) the Civic Administration **BE AUTHORIZED** to undertake all the administrative acts that are necessary in connection with this matter; and

(d) the approval given herein **BE CONDITIONAL** upon the Corporation entering into a formal contract or issuing a purchase order relating to this matter. (A15-00)

5. (5) That, on the recommendation of the General Manager of Community Services, the following actions be taken with respect to Liquor Sales Licence Applications and golf course food and beverage services:

(a) the attached proposed by-law **BE INTRODUCED** at the Municipal Council meeting on January 19, 2009, to authorize the General Manager of Community Services, or designate, to execute "Liquor Sales Licence Applications" for submission to the Alcohol and Gaming Commission of Ontario with respect to City-owned golf courses; and

(b) food and beverage services at River Road, Thames Valley and Fanshawe Golf Courses **BE MANAGED** by the City of London; it being noted that larger functions may be contracted to external caterers. (A09-05)

6. (6) That, on the recommendation of the Acting General Manager of Environmental and Engineering Services & City Engineer, the following actions be taken with respect to communications services for the HELP Clean Water initiative:

(a) the Civic Administration **BE DIRECTED** to renew the service agreement with Excalibur Communications, London, as it pertains to the HELP Clean Water initiative and activities in compliance with Schedule "D" to By-law A-6151-17 – Appointment of Consulting Services Policy; and

(b) the Mayor and the City Clerk **BE AUTHORIZED** to enter into the appropriate multi-party agreement with Excalibur Communications and the other HELP proponents; the Lake Huron Primary Water Supply System and the Elgin Area Primary Water Supply System. (W13-01)

7. (7) That, on the recommendation of the Acting General Manager of Environmental & Engineering Services and City Engineer, the attached proposed by-laws to amend By-law W-7, the Water Rates and Charges By-law, and By-law WM-26, the Sewer System Fees and Charges By-law, **BE INTRODUCED** at the Municipal Council meeting on January 19, 2009 to provide clarity with respect to the effective dates of the various rates and charges. (G05-00)
8. That, on the recommendation of the General Manager of Finance and Corporate Services and Acting City Treasurer, the attached proposed by-law **BE INTRODUCED** at the Municipal Council meeting on January 19, 2009 for the purpose of establishing a new custodial fund to be administered by the City of London, for the deposit of donations raised by the Piccadilly Park Community Committee. (F12-00)

9. That, on the recommendation of the General Manager of Finance and Corporate Services and Acting City Treasurer, and in accordance with the Council Civic Luncheons and Receptions Policy, funding in the amount of $2,000 **BE APPROVED** to provide a hosting grant to the Forest City Road Races for sponsorship of the Runners' Reception to take place on May 10, 2009 subject to:
   (a) the City of London being given the traditional level of recognition for its contribution towards the reception;
   (b) the Mayor (or her designate) being invited to attend the dinner to represent the City of London; and
   (c) approval of sufficient funding for this grant in the 2009 Operating Budget for Civic Luncheons and Receptions. (F12-00)

10. That, on the recommendation of the General Manager of Finance and Corporate Services and Acting City Treasurer, and in accordance with the Council Civic Luncheons and Reception Policy, funding in the amount of $3,000 **BE APPROVED** to provide a hosting grant towards sponsorship of a reception for the Espoir Nationals 2009 – Canadian Synchronized Swimming Championships to be held in London from June 3 to 7, 2009, subject to:
   (a) the City of London being given the traditional level of recognition for its contribution towards the reception;
   (b) the Mayor (or her designate) being invited to attend the reception to represent the City of London; and
   (c) approval of sufficient funding for this grant in the 2009 Operating Budget for Civic Luncheons and Receptions. (F12-00)

11. That, on the recommendation of the General Manager of Finance and Corporate Services and Acting City Treasurer, on the advice of the City Clerk, the attached proposed by-law **BE INTRODUCED** at the Municipal Council meeting to be held on January 19, 2009 to amend the Council Procedure By-law to delete reference to a preliminary budget review by the Standing Committees and to provide that when setting the annual schedule of meetings provision shall be made for meetings to consider and adopt the annual Operating, Capital, Water and Wastewater and Treatment Budgets. (FO5-00)

12. That, on the recommendation of the Director of Corporate Management Support, in consultation with the City Solicitor’s Office, the following actions be taken with respect to the Public Art Program:
   (a) the City of London Public Art Policy, which outlines the funding of public art in municipally-owned public space, **BE AMENDED** as in attached Appendix A, to:
      (i) add the following new section 2.3.2:

      "2.3.2 Acquiring Public Art

      Donation of Funding to Acquire or Maintain Public Art

      Should a donation of funding from the public or private sector be received for the City of London’s Public Art Program, this funding would be treated similarly to the annual contribution allocated by Council outlined in Section 3.1 and 3.2 of this Policy."
Donations must be free and clear of conditions and restrictions imposed by the donors regarding the City's use of these funds for the City of London's Public Art Program.

(ii) replace sections 3.1 and 3.2 with the following new sections 3.1 and 3.2:

"3.1 Public Art Acquisition Reserve Fund

Public art funding will be annually allocated by Council to a Public Art Acquisition Reserve Fund for the purchase, commission and donation of public art.

A drawdown of up to 10% from the public art funding annually allocated by Council to the Public Art Acquisition Reserve Fund will be used for the administration of the Public Art Policy, which will depend upon specific public art project requirements.

The Public Art Acquisition Reserve Fund may also accept donations of funding from the public or private sector toward the City's Public Art Program, noting that this funding will be treated similarly to the annual contribution allocated by Council. Donations must be free and clear of conditions and restrictions imposed by the donors regarding the City's use of these funds for the City of London's Public Art Program.

3.2 Public Art Maintenance Reserve Fund

In addition there will be an annual drawdown of 10% from the public art funding annually allocated by Council to the Public Art Acquisition Reserve Fund for the Public Art Maintenance Reserve Fund, noting that from time to time, the Culture Office may recommend that this drawdown percentage be increased to meet specific public art maintenance requirements.

The use of this fund will be administered by the Culture Office, in conjunction with the Environmental and Engineering Services Department, to ensure specific maintenance requirements for individual pieces of public art are met. Incidental maintenance that is part of the expected City of London operating budgets, including graffiti and site clean-up, will not be funded from this reserve fund.

Donated art will also include a funding donation for the maintenance and conservation/restoration of the work being donated, the amount of which will be negotiated as part of an acceptance agreement.

Where funds are donated from the public or private sector for the City of London's Public Art Program, this donation will also include a funding donation for the maintenance and conservation/restoration, the amount of which will be negotiated as part of an acceptance agreement.

(b) the attached proposed by-law (Appendix B) providing for the implementation of the City of London Public Art Policy, as amended in (a), above, effective January 19, 2009, BE INTRODUCED at the Municipal Council Meeting on January 19, 2009;

(c) the attached proposed by-law (Appendix C), providing for the establishment of a Public Art Acquisition Reserve Fund, BE INTRODUCED at the Municipal Council meeting on January 19, 2009;

(d) the attached proposed by-law (Appendix D), providing for the establishment of a Public Art Maintenance Reserve Fund, BE INTRODUCED at the Municipal Council meeting on January 19, 2009; and
(e) public art funding in the amount of $123,500 BE TRANSFERRED from the Operating Budget Contingency fund to the established Reserve Funds; and that, going forward, any unspent surplus from these accounts BE CONTRIBUTED to these reserve funds. (C15-00)

13. (16) That, on the recommendation of the Chief Administrative Officer, the attached revised proposed by-law BE INTRODUCED at the Municipal Council meeting on January 19, 2009 to amend Council Policy 16(35) related to the Promotion of Corporate Products to City Staff. (M13-00)

14. (18) That the recommendations in the Tax Adjustment Agenda dated January 14, 2009 BE APPROVED; it being noted that at the public hearing associated with this matter there were no members of the public in attendance to speak to this matter before the Board of Control.

15. (19) That, on the recommendation of the Manager of Financial Services and Acting Deputy City Treasurer, the taxes levied on the blocks of land described in the attached schedule BE APPORTIONED in accordance with the said schedule, pursuant to Section 356 of the Municipal Act, 2001; it being noted that at the public hearing associated with this matter there were no members of the public in attendance to speak to these matters before the Board of Control. (F16-00)

16. (20) That, on the recommendation of the Chief Administrative Officer, the General Manager of Finance and Corporate Services and Acting City Treasurer, and the Director of Corporate Management Support, the following actions be taken with respect to funding for Orchestra London:

(a) City Council BE ADVISED that in accordance with the Guidelines of the Community Arts Investment Program (CAIP) Policy, the Civic Administration has determined that Orchestra London is ineligible to receive Community Arts Investment Program (CAIP) Category #1 funding for 2009;

(b) the 2009 Budget request for the Community Arts Investment Program (CAIP) Category #1 funding BE REDUCED by $500,000 on a one-time basis, recognizing that this funding will not be required in 2009 as Orchestra London is ineligible to receive funding from this Program;

(c) notwithstanding (a), above, in light of the action previously taken by Council with respect to the provision of the Loan Guarantee for Orchestra London, operating funding BE PROVIDED to Orchestra London in 2009 in the amount of $482,688; it being noted that this amount is equal to the amount that Orchestra London could have qualified for under the CAIP Category #1 Program in 2009; it being further noted that the $500,000 declared surplus from the CAIP Category #1 2009 Budget of the Culture Office, could potentially be used as the source for this funding;

it being understood that it is anticipated that Orchestra London will not be eligible to apply to the CAIP — Category #1 Program for a number of years and this funding will likely be required for the period of the Loan Guarantee and should be subject to:

(i) the annual receipt and review of a business plan that has been reviewed by Orchestra London's external financial consultant; and,

(ii) the receipt of monthly cash flow statements from Orchestra London's external financial consultant;

(d) the Civic Administration BE DIRECTED to take the necessary steps to amend the criteria for Community Arts Investment Program (CAIP) Category #1 funding to require minimum quarterly reporting by the recipient(s), including the provision of financial statements, to the Board of Control; and
(e) the Board Chair and Members of Orchestra London BE INVITED to a Board of Control meeting in the Spring of 2009 for the purpose of providing a verbal and written update on Orchestra London’s situation; it being noted that the Board of Control heard verbal presentations from the Chief Administrative Officer and the General Manager of Finance and Corporate Services and Acting City Treasurer with respect to the City’s perspective on this matter and also heard verbal presentations from B. Kelman and J. Dunlop, representing Orchestra London, advising that D. Alexander, G. Francolini and J. Stewart have agreed to sit on Orchestra London’s Oversight Committee, that Orchestra London has received confirmation of a significant sponsorship, and, further, that they and others involved with assisting Orchestra London through these difficult times are making their best effort to strengthen Orchestra London’s financial position.

17. (21) That, on the recommendation of the General Manager of Finance and Corporate Services and Acting City Treasurer, City Finance Staff BE DIRECTED to review all possible transit taxation alternatives as part of the 2009 tax policy report; it being noted that Mr. Valente should be provided with a copy of the staff report with respect to this matter. (F16-00)

18. (24) That, on the recommendation of the City Clerk, the following actions be taken with respect to the establishment of an Accountability and Transparency Task Force:

(a) the attached Terms of Reference for the Accountability and Transparency Task Force BE APPROVED;

(b) the Civic Administration BE DIRECTED to take the necessary administrative actions to implement the Accountability and Transparency Task Force. (G06-00)

19. (25) That the applicable Ward Councillors BE ASKED to consider participating in the Thames Valley District School Board’s (TVDSB) Accommodation Review Process on a case by case basis; it being noted that the Board of Control (BC) received a communication dated December 10, 2008 from the Acting Executive Superintendent, Operations Services, TVDSB, with respect to its Accommodation Review Process; it being further noted that the most recent request by the TVDSB pertains to involvement by either Councillor Caranci or Councillor Orser on the Accommodation Review Committee for London Study Area 11 and Councillor Lonc for London Study Area 12. (C08-00)

II YOUR BOARD REPORTS:

20. (12) That the Board of Control reviewed and received an information report from the City Clerk with respect to the 2008 Annual Report under the provisions of the Municipal Freedom of Information and Protection of Privacy Act - 2008 Annual Report (105-00)

21. (13) That the Board of Control reviewed and received an information report from the General Manager of Finance and Corporate Services and Acting City Treasurer with respect to assessment growth, changes in market values and shifts in taxation as a result of the 2009 reassessment. (F04-00)

22. (15) That the Board of Control reviewed and received an information report from the City Solicitor with respect to provincial removal of the Municipality's autonomy affecting its ability to make decisions, such as the Municipality's Smoking By-law and Pesticide By-law. (G10-00)

23. (17) That the Board of Control reviewed and received an information report from the Chief Administrative Officer with respect to an update regarding Community Report Cards, as well as copies of the 2007 Managed and Balanced Growth Report Card, 2007 Progressive Transportation Report Card and 2007 Infrastructure Renewal and Expansion Report Card. (G10-00)
24. (22) That the Board of Control (BC) received a copy of a communication from the Mayor of the Township of Bonfield and the Mayor of the Township of East Ferris seeking financial assistance for victims of flood damages in their townships. The BC requested that the communication be referred to the Civic Administration to report back to the BC with respect to what other municipalities are doing in response to this request. (F12-00)

25. (23) That the Board of Control (BC) received a copy of a communication dated December 12, 2008 from the Chair, Board of Directors, Municipal Property Assessment Corporation (MPAC) requesting that the City of London raise the issue of the interpretation of “current value” in the Municipal Act with the local Members of Provincial Parliament. The BC requested the Civic Administration to review the communication and report back thereon at a future meeting of the BC. (FO4-00)

26. (26) That the Board of Control (BC) received a communication dated January 9, 2009 from Councillors Branscombe and Bryant with respect to the posting of Council Advisory Committee, Working Group and Task Force agendas and reports to the City of London’s website. The BC referred the communication to the City Clerk for report back at a future meeting of the Board of Control. (112-00)

27. (27) That the Board of Control (BC) received a communication dated January 8, 2009 from Councillor Usher requesting that consideration be given to licensing adult entertainment retail outlets. The BC referred the communication to the City Solicitor for report back at a future meeting of the Board of Control. (PIO-06)

28. (28) That the Board of Control (BC) received an overview from the Acting General Manager of Environmental & Engineering Services and City Engineer and the Director of Environmental Programs & Solid Waste with respect to the Public Participation Meeting held by the Environment and Transportation Committee (ETC) on January 12, 2009 pertaining to the draft W12A Landfill Community Enhancement and Mitigative Measures Program; it being noted that some further adjustments are being made to the Program as a result of the input received and the revised draft will be coming back to the ETC in four to six weeks’ time.

29. (Added) That the Board of Control requested the Civic Administration to extend an invitation to the Presidents of the City of London’s employee groups, as well as the heads of the City of London’s various agencies, boards and commissions to attend the upcoming budget information session being held on January 22, 2009.

30. That the Board of Control (BC) passed the following resolution prior to moving in camera from 10:49 a.m. to 11:36 a.m.:

That the Board of Control move in camera to consider the following matters:

(a) a matter pertaining to litigation or potential litigation affecting the municipality, personal matters about an identifiable individual and information whose disclosure could reasonably be expected to prejudice the economic interests of the Corporation or instructions to be applied to any negotiations carried on or to be carried on by or on behalf of the Corporation;

(b) a matter pertaining to advice and recommendations of officers and employees of the Corporation concerning labour relations and employee negotiations relating to one of the Corporation's associations or unions and advice which is the subject of solicitor client privilege;

(c) a matter pertaining to personal matters involving an identifiable individual who is a municipal employee with respect to employment related matters, including advice or recommendations of officers and employees of the Corporation necessary for that purpose;
(d) a matter pertaining to employee negotiations and personal matters about identifiable individuals, including municipal employees and advice or recommendations of officers and employees of the corporation, including advice which is the subject of solicitor client privilege and communications necessary for that purpose and for the purpose of providing instructions and directions to officers and employees of the Corporation;

The Board of Control passed the following further resolution prior to moving in camera from 11:40 a.m. to 11:55 a.m.:

That the Board of Control move in camera to consider the following additional matter:

(e) a matter pertaining to personal matters involving an identifiable individual who is a municipal employee with respect to employment related matters, including advice or recommendations of officers and employees of the Corporation necessary for that purpose;

and that the BC is submitting a confidential report to the Municipal Council regarding these matters. (See Confidential Appendix to the 3rd Report of the Board of Control enclosed for Council Members only.)

The meeting adjourned at 12:10 p.m.

Board of Control Action on Committee Reports

2nd Report of the Environment and Transportation Committee

Clause 1 - Concluded