

TO:	CHAIR AND MEMBERS CORPORATE SERVICES COMMITTEE
FROM:	ANNA LISA BARBON DEPUTY CITY TREASURER
SUBJECT:	MEETING ON APRIL 12 , 2016 SHAMROCK SUBDIVISION – AGREEMENT WITH PROPERTY OWNER

RECOMMENDATION

That, on the recommendation of the Deputy City Treasurer, Civic Administration BE DIRECTED to complete the Agreement dated May 14th, 2012 between the Corporation of the City of London and Samuel John Shirley; it being noted that the clean-up requirements of the Agreement have been complied with by the property owner but after the two year deadline indicated in the agreement.

PREVIOUS REPORTS PERTINENT TO THIS MATTER

Finance and Administrative Services Committee – March 26, 2012 – Shamrock Subdivision – Possible Agreement with Property Owner – (copy attached)

BACKGROUND

On May 14th, 2012 the City entered into an agreement with the owner of 34 lots on the south side of Exeter Road west of Wellington Road known as the Shamrock Subdivision (Plan 33 M-272). The terms of the agreement required the owner of the land to clean-up existing environmental contamination on the 34 lots and file a record of site condition with the Ministry of the Environment. In return, the agreement required the City to write off all tax arrears on the lots at the time of completion of the clean-up. A copy of the report that recommended Council enter into the Agreement is attached as Appendix A to this report. A copy of the signed Agreement is attached as Appendix B.

Prior to the Agreement, the City had attempted on two occasions to sell the lots for tax arrears at tax sales. The first attempt was at a tax sale on September 15th, 2005. The second attempt was at a tax sale on September 30th, 2008. After the second tax sale, the City also issued a Request for Expressions of Interest in accordance with the established policy on properties that do not sell at a tax sale. The City was unable to obtain any potential purchasers through the Expression of Interest process.

The inability to find potential purchasers was related to the potential cost of remediation of environmental contamination on the 34 lots. After the failed tax sales, the City did phase 1 and 2 Environmental Site Assessments (ESA) on the property. These reviews indicated that there were potentially significant clean-up costs associated with the property. The preliminary costs estimated by the ESA consultant for the “worst case” scenario ranged between \$11- \$21 million dollars. The remediation costs could be significantly lower depending on the land use of the property.

After a tax sale, the City can vest the property in the City’s name if there is no successful purchaser. In such situations the City follows the steps set out in Council Policy 26(4). A copy of this policy is attached as Appendix D. As described in the attached report dated March 6th, 2012 (Appendix A), staff followed the steps as set out in the approved Council Policy. Because of the potential environmental liabilities associated with vesting the property in the City’s name and the inability to obtain any expressions of interest in acquiring the property, the City decided not to vest the land. Instead, the City entered into an agreement (Appendix B) with the property owner to clean-up the

property.

On May 14, 2014 the property owner submitted to the City a document that indicated that an application for a Record of Site Condition (RSC) had been submitted to the Ministry of the Environment at about 11:00 am on that date. The City was later advised by representatives of the property owner (Golder Associates) that the RSC was not accepted by the Ministry of the Environment for filing because all the lots were not contiguous with each other. Some of the lots were separated by roads owned by the City. The City was advised by the representative of the property owner (Golder Associates) that the Ministry required a separate RSC for each group of contiguous lots. This meant that the property owner was required to file four RSCs for the lots instead of one.

In January 2016, the property owner submitted documentation that indicated 4 RSCs had been filed with the Ministry of the Environment for the 34 lots identified in the clean-up agreement. The four confirming documents were dated July 21st, 2015, August 4th, 2015, December 18th, 2015 and January 14th, 2016. The representative of the property owner has submitted a letter summarizing and describing what occurred between May 14, 2014 when the original RSC application was filed and January 14th, 2016 when the final RSC was confirmed filed with the Ministry of the Environment. A copy of this letter is attached as Appendix C to this report.

The property owner has complied with the purpose and requirements of the Agreement, although the completion of the Agreement is after the specified term. The Chief Municipal Law Enforcement Officer has confirmed that section 1.0.1 and 1.0.2 of the Agreement have been complied with. The City Engineer has confirmed that the sections 1.0.3 and 1.0.4 of the Agreement have been complied with.

It is recommended that Council approve completion of the Agreement and the write-off of taxes by the City. The taxes to be written off amount to approximately \$5 million at December 31st, 2015. The write-off of these taxes will not impose any additional expense for the City as the amount has already been included in the allowance for uncollectable taxes in the City's financial statements at each year end up to and including December 31st, 2015. The completion of the Agreement will bring the previously contaminated industrial sites back to life in the City to facilitate economic growth and tax revenue in the future.

If the Council were to consider not completing the agreement, it is recommended that advice be obtained from the City Legal Department.

SUBMITTED BY:	CONCURRED BY:
JIM LOGAN DIVISION MANAGER, TAXATION AND REVENUE	LARRY PALARCHIO DIRECTOR, FINANCIAL PLANNING AND POLICY
RECOMMENDED BY:	
ANNA LISA BARBON DEPUTY CITY TREASURER	

c. John Braam, Mike Losee, Wes Abbott, Anthony Van Rossum, Jay Stanford, Orest Katolyk, Jim Barber, Dave Mounteer, Bill Warner, Greg Barrett, John Freeman