TO:	CHAIR AND MEMBERS CORPORATE SERVICES COMMITTEE MEETING ON APRIL 26, 2016
FROM:	**MARTIN HAYWARD MANAGING DIRECTOR, CORPORATE SERVICES AND CITY TREASURER, CHIEF FINANCIAL OFFICER**
SUBJECT:	**YEAR 2016 TAX POLICY**

RECOMMENDATION

That, on the recommendation of the Managing Director, Corporate Services and City Treasurer, Chief Financial Officer, the following actions be taken with respect to property taxation for 2016:

a) the Civic Administration BE DIRECTED to bring forward a proposed by-law for introduction and enactment at the Municipal Council meeting to be held on May 3, 2016, in accordance with Sub-sections 308(4) and 308.1(4) of *the Municipal Act, 2001*, to set tax ratios in the various property classes in keeping with the option selected by the Municipal Council from the attached Schedule "B"; it being noted that either option A or B are recommended by Finance staff;

b) the Civic Administration BE DIRECTED to bring forward a proposed by-law for introduction and enactment at the Municipal Council meeting to be held on May 3, 2016 to fully utilize options available in 2016 to exclude properties in capped property classes which have reached current value assessment tax levels or higher in 2015 from being capped again in 2016 and future years;

c) the Civic Administration BE DIRECTED to bring forward a proposed by-law for introduction and enactment at the Municipal Council meeting to be held on May 3, 2016 to initiate a 4 year phase out of capping for any of the non-residential property classes where London is eligible for such option;

d) the Civic Administration BE DIRECTED to bring forward a proposed by-law for introduction and enactment at the Municipal Council meeting to be held on May 3, 2016 to claw back a portion of tax decreases in each of the commercial, industrial and multi-residential classes sufficient to fully finance the capping of increases as required under Section 329 of the *Municipal Act, 2001*;

e) the Civic Administration BE DIRECTED to bring forward a proposed by-law for introduction and enactment at the Municipal Council meeting to be held on May 3, 2016 to adopt the capping formulae for the commercial, industrial and multi-residential property classes as described in detail in this report;

f) NO ACTION BE TAKEN to adopt a phase-in program for tax changes resulting from the reassessment of properties in the residential, farmland and managed forests property classes in accordance with Section 318 of the *Municipal Act, 2001*; it being noted that such a phase-in is unnecessary with the current system of four year phase-in of assessment values on the assessment roll;

it being noted that due to the delay in receiving the necessary information and related regulations from the Ministry of Finance it was not possible to draft the by-laws related to the above-noted recommendations prior to the submission deadline for this report, however it is anticipated that the draft by-laws should be available during the week of April 25, 2016, in advance of the Municipal Council meeting to be held on May 3, 2016.

PREVIOUS REPORTS PERTINENT TO THIS MATTER

Corporate Services Committee Report - January 19, 2016 – Assessment Growth for 2016, Changes in Taxable Phase-in Values, and Shifts in Taxation as a Result of Reassessment
Corporate Services Committee Report – April 7, 2015 –Year 2015 Tax Policy
Finance and Administration Committee Report - September 28, 2011 - Future Tax Policy
Corporate Services Committee Report – January 19, 2016 – Future Tax Policy – Possible Directions

BACKGROUND

Recommendations 1 – Tax Ratios for 2016 Taxation

Definition of the Term "Tax Ratio"

Tax ratios compare the tax rate for municipal purposes in a particular property class to the residential class. The ratio for the residential class is deemed to be 1.00. A tax ratio of 2.00 would therefore indicate a municipal tax rate twice the residential municipal tax rate. Education tax rates are set by the Province and are not dependent on tax ratios approved by municipal Councils. Under subsection 308(4) of the Municipal Act, 2001 all single tier municipalities are required to pass a by-law in each year to establish tax ratios for the year.

History of Tax Ratio Setting Restrictions

Beginning in the year 2001, the Province established threshold tax ratios for three property classes - commercial, industrial and multi-residential. At the time, the Province indicated that these threshold ratios represented the Provincial average in each class. Under provisions of the *Municipal Act* and related regulations, municipalities were not permitted for the year 2001 or subsequent years to impose a general municipal levy increase on a property class which had a ratio exceeding the Provincial threshold or average. Beginning in 2004, this restriction was modified somewhat to permit levy increases at half the residential rate in property classes with tax ratios above Provincial thresholds. The Province has advised that this flexibility will be provided to municipalities again for 2016 taxation.

London's Tax Ratios, Provincial Thresholds and Municipal Comparisons

In reviewing tax policy for 2016, it should be noted that none of the property classes in the City of London are above the Provincial thresholds. The only property class in London that was ever above the Provincial threshold was the industrial class. Council moved the industrial ratio down to the threshold for 2001 taxation. At the time of the last reassessments in 2006 and 2009, Council maintained the policy of not permitting tax ratios in any property class to exceed Provincial thresholds.

The tax ratios in effect for the year 2015 and their proximity to the Provincial thresholds or averages established in 2001, as well as the Provincial targets or allowable ranges can be summarized as follows:

	City of London 2015 Tax Ratio	Provincial Threshold/Average (O.Reg. 73/03)	Provincial Targets/Allowable Ranges (O.Reg. 386/98)
Commercial	1.950000	1.98	0.6 to 1.1
Industrial	1.950000	2.63	0.6 to 1.1
Multi-Residential	1.950000	2.74	1.0 to 1.1
Pipeline	1.713000	N/A	0.6 to 0.7
Farm	0.187600	N/A	N/A
Residential	1.000000	N/A	N/A

Schedule “B” attached provides comparative information on how different municipalities tax the various different major property classes. The information from Schedule “B” comes from the 2015 BMA Municipal Study and includes all municipalities with populations greater than 100,000. The last column of Schedule “B” is a theoretical calculation that shows the tax increase that would be required in the residential property class in each municipality if all property classes had a tax ratio of 1. The Schedule indicates that the theoretical adjustment for the City of London would be close to the average and the median for the group.

Tax Ratios –Commercial –industrial – Multi-residential

Schedule “A” attached, summarizes the tax ratios for all municipalities with populations greater than 100,000 included in the 2015 Municipal Study prepared by BMA Management Consulting Inc. The attached Schedule “A” shows the tax ratios for the three main non-residential property classes – Commercial, Industrial, and Multi-residential. In 2015 the City of London completed a long term objective identified in September 2011 of lowering and equalizing the tax ratios in the main non-residential property classes. Over a four year period the City adjusted all the main non-residential tax ratios to a level of 1.95. Both the Region of Waterloo and the City of London had uniform ratios of 1.95 for all these property classes in 2015.

Schedule “A” indicates the multi-residential ratio is below the average and the median when compared to the other municipalities listed. The commercial ratio is above the average and at the median and the industrial ratio is below the average and the median.

In the future tax policy report that went to Council in January 2016 three possible broad directions for future tax policy were identified. One option was to leave major non-residential tax ratios at current levels now that a competitive uniform non-residential tax ratio has been established for the commercial, industrial and multi-residential property classes. Another option identified was to to work at gradually lowering non-residential tax ratios in a uniform way in the future. A third option identified was to focus on the multi-residential property class only in preference to other non-residential classes.

The three options were analysed and compared in detail in the future tax policy report that was presented to Council in January, 2016. The impact of the three options with the current year’s approved levy and education tax rates set by the Province are presented on Schedule “B” attached to this report. Option A on Schedule “B” is to make no changes in 2016 for tax ratios in the main non-residential property classes. Option C is to lower the ratio for all three main non-residential property classes in a uniform manner. Option D is to lower only the multi-residential property class. Option C and Option D maintain the overall average tax increase including education at 2.5% for 2016 in the residential property class. A fourth option B is also presented which equalizes the tax increase for 2016 in the multi-residential and the residential property classes. The City has adopted the approach described in option B for Multi-residential property in the past.

It is recommended that Council adopt either options A or B since neither of these options will significantly affect the residential property class and both options will still maintain commercial and industrial tax ratios at a uniform competitive level of 1.95. Option B will mitigate the relatively high average increase in the multi-residential property class that is being caused by the phase in of value changes of the 2013 reassessment in 2016.

Option B on Schedule B

Prior to 2013 the City did adopt the approach shown in option B to mitigate tax increases that were occurring in the Multi-residential Class. In 2013, however, the City adopted a policy to lower the Multi-residential and Industrial tax ratios to the level of the Commercial class. The Multi-residential tax ratio was equalized with the Commercial ratio in advance of the Industrial tax ratio. As was noted in the Future Tax Policy report in January value increases in the Multi-residential property class have been significantly greater than increases in the residential class over the last decade. Option B would result in an average tax increase including education in the residential property class of 2.2%.

The Multi-residential property class does have a significant difference from the other major non-residential property classes in that it is possible for properties in the multi-residential property class to be transferred to the residential property class by means of a condominium conversion. Three examples of condominium conversions were presented in the future tax policy report to illustrate how both the valuation and the tax rate change as a result of a condominium conversion. The three examples in the report had an average taxable value increase of about 56% upon conversion. More extensive sampling has indicated that an average value increase for conversion which have been done since 2005 probably is somewhere in the 50% to 60% range.

It should be kept in mind, however, that this is an average value change for condominium conversions that have occurred. Normally the first step in considering whether to proceed with a condominium conversion would be a review to estimate the probable tax change on the conversion. If the conversion did not produce a significant tax change then the conversion typically would not proceed. The value change therefore on condominium conversions which have occurred may not be representative of the value change that would occur on properties that have not been converted. The other point to keep in mind on condominium conversions is that there can be great variation in the value increase from one property to another and significant variations from the average will occur frequently.

If a tax ratio is reduced in a multi-residential property class it is possible to increase the tax ratio at a later date if circumstances permit the adoption of revenue neutral tax ratios. The circumstances would be dependent on how values are changing in the various property classes in the reassessment process. This would likely require growth in multi-residential valuations at the time of a reassessment being lower than residential values.

Farm Property Class Tax Ratio for 2016

The tax ratio for the farm property is set in accordance with Section 308.1 of the *Municipal Act, 2001*. Under the provisions of that Section, the ratio is automatically reset to .25 every year unless the Municipality sets it at a lower level by by-law each year. The farm property class is a very small class in the City of London, and changes in the tax ratio for the farm class have no significant impact on any other property classes. In the past the City has always followed a policy of setting the farm property class tax ratio at a level that would result in the farm class receiving the average municipal tax increase subject to the .25 maximum in the legislation. We recommend continuation of this policy for 2016. This policy will result in a the tax ratio indicated on schedule B in the farm class in 2016. The 2015 ratio was .1876.

Pipeline Tax Ratio for 2016

Unlike the commercial, industrial, and multi-residential classes, the Province has not set any threshold tax ratio level or levy restriction with respect to the pipeline class. However there are significant restrictions on increases in pipeline tax ratios set out in section 308 of the *Municipal Act, 2001*. It is therefore recommended that the tax ratio for the pipeline class not be changed for the year 2016.

Summary of Tax Ratio Recommendations for 2016

In summary, for 2016 we are recommending council select either option A or B shown on Schedule "B". Schedule "B" indicates the alternative tax ratios and the % increases in taxes in the various property classes both including and excluding the education component of the property tax bill.

Ongoing Reductions in Business Education Taxes

In April 2005, London City Council passed a resolution requesting that the Minister of Finance for the Province of Ontario "review the entire process for setting education property tax rates for business properties and that education tax rates for properties in the City of London be lowered to a level consistent with other municipalities in the Province". The resolution, along with a letter from the Mayor went to the then Minister of Finance, Greg Sorbara in April 2005. After a letter from the Minister in June 2005, the Mayor followed up with a second letter in February 2006 to a new Minister of Finance – Dwight Duncan. In 2007, Dwight Duncan announced that major tax reform would occur in the area of education property taxes along the lines requested by the City beginning in 2008 and would be phased-in over the seven year period ending in 2014. As a result of this major reform, the Province had indicated that by the year 2014 when the phase-in was complete, education property taxes in the City of London will be reduced by $33.6 million each and every year into the future from what they otherwise would have been.

In the Ontario budget introduced in the legislature on March 27, 2012, however, it was announced that business education property tax cuts previously scheduled for 2013 and 2014 would be deferred until 2017-2018 after Ontario is returned to a balanced budget. It is estimated that the reductions that the 2012 Provincial budget has deferred until at least 2017-2018 should be in the $10 million range for commercial and industrial properties in London.

Recommendations 2 and 3 – Utilizing Options Available to Bring an End to Capping Tax Increases and Clawing Back Tax Decreases in the Commercial, Industrial and Multi-Residential Property Classes

Since major Province wide tax reform began in 1998, the Province has mandated a complex system of capping tax increases and clawing back tax decreases in the commercial, industrial and multi-residential property classes. We have long believed the entire system was unfair to taxpayers, damaging to economic development and administratively onerous. Based on consultation with municipal representatives including the City of London during 2008, the Province provided increased flexibility under the business tax capping program for 2009 and future years. It appears the Province decided to provide this very significant increase in flexibility to municipalities because of the new tax mitigation provided by the four year phase-in of assessment values beginning with the reassessment for 2009 taxation.

For the first time in 2009, municipalities had options to permanently remove properties from the capping and claw-back system once they have reached their CVA (current value assessment) level taxes. Municipalities can have these options apply to all capped property classes or limit the options to individual capped classes. For 2016 this means that any property which had paid CVA taxes or higher (i.e. clawed back) in 2015 can be excluded from having a tax increase capped in 2016. At the same time, a property that had a tax increase capped in 2015 cannot have a tax decrease clawed back in 2016 if the options are chosen. Preliminary calculations indicate continuing to fully utilize the options available will significantly reduce the capping of tax increases and clawing back of tax decreases.

For 2016 a new option to reduce and eliminate the tax capping and claw-back system in the commercial, industrial and multi-residential property classes will be available. For 2016 and future years where there are no properties taxed at less than 50% of CVA levels then a municipality may enter a 4 year phase out program to end capping in the property class. London may be eligible for this program in the industrial class for 2016 and in the Commercial and Multi-residential property classes in the near future.

We recommend that Council take advantage of this opportunity to bring the capping of tax increases and the clawing back of tax decreases to an end as soon as possible. In 2015, the City utilized all options available to exclude properties from future capping and no problems were encountered. The continued implementation of all available options to end capping in 2016 will require Council to pass a by-law in accordance with the Municipal Act, 2001. The continuation of the capping program is unnecessary because of the 4 year phase in of assessed values that began in 2009.

Recommendation 4 - By-law to Claw back a Portion of Tax Decreases in Capped Property Classes

Under Section 329 of the Municipal Act, Council is still required to cap some year-over-year tax increases after 2001 in certain property classes (i.e. commercial, industrial, and multi-residential). In the year 2008 many properties still had tax increases resulting from the reassessment for 1998 taxation which had not been completely phased-in. In many cases, the reassessments for 2001, 2003, 2004, 2006, 2009, and 2013 created additional tax increases and decreases subject to new capping and clawing back rules as set out in the Municipal Act.

Council does theoretically have the option of financing the capping of tax increases on the capped property classes by increasing the general tax levy. We do not recommend this course of action however because of the impact on the general tax rate.

Since 1998, tax decreases that otherwise would have been implemented have been clawed back at the rates indicated on Schedule “E” to finance the capping of properties with tax increases within each capped property class.

Final claw back percentages that will be applicable for year 2016 are not yet available. As has been the practice in the past, City staff will work closely with the Province to calculate caps and

claw backs applicable for 2016 prior to the issuance of final bills for the capped classes. The dollar amounts of cap adjustments by year from 1998 to 2015 are attached as Schedule “D”.
It is recommended that Council pass the necessary by-law to authorize the clawing back of tax decreases in the capped property classes sufficient to finance the capping of tax increases (i.e. the maximum claw back rate permitted by Section 330 of the *Municipal Act*).

Recommendation 5 - By-law to Set a Formula for Calculating Caps in the Commercial, Industrial and Multi-Residential Property Classes

Since 2008, Council has adopted several options permitted by Section 329.1 to reduce the amount of capping of tax increases and clawing back of decreases in the commercial, industrial and multi-residential property classes. The selected options were as follows:

- capping at 10% of previous years taxes instead of the 5% minimum;
- utilizing the option of 5% of previous years CVA taxes where applicable;
- reducing cap adjustments equal to or less than $250 to nil;
- new construction was taxed without any cap adjustment.

The use of all these options significantly reduced the amount of clawing back of decreases as can be seen on Schedules “E” and “F” of this report. No significant problems or issues were encountered by the City Tax Office in past billings as a result of utilizing the above options. The by-law to use the options only referred to the particular tax year. The use of these option will expedite the eventual end of the capping and clawing back system as more and more properties reach their CVA level taxes. As indicated previously there are new options available for 2016 to alter the formulae for capping property tax increases which we are recommending. These options include changing the 5% of previous years CVA cap to 10% and reducing cap adjustments equal to or less than $500 to nil.

It is therefore recommended that a by-law be enacted under section 329.1 of the *Municipal Act, 2001* for 2016 and subsequent years where applicable, to adopt the capping formula described above including the new options available for 2016 as described above.

Recommendation 6 - Phase-In Program for Residential Property Class

All residential properties in the City of London were reassessed for 2013 taxation based on January 1, 2012 market values. The January 1, 2012 market values are being phased-in over a 4 year period from 2013 to 2016 as required by Provincial legislation. Assessment related tax changes for 2015 occurring in the residential class have been analyzed and compared to the 2009, 2006, 2004, 2003, 2001 and 1998 reassessments. The results of this analysis are shown on Schedule “I” attached.

Assessment related tax changes exclude tax increases that result from levy increases. The levy increase is imposed in addition to assessment related tax changes (increases and decreases).

As can be seen from Schedule “G”, the assessment related decreases and increases for 2015, 2014, 2013, 2012, 2011, 2010 and 2009 are significantly less than the increases and decreases which have occurred in reassessments in the City prior to 2009. The reason for this is that for the first time in 2009, the Province included a phase-in of all reassessment changes on the 2009 assessment roll. This phase-in process will be continued over the period 2013 to 2016. For 2016, residential properties will be valued on the roll at their January 1, 2012 value.

For 1998 and subsequent reassessments up to and including 2013, Council decided that a phase-in under section 318 of the *Municipal Act, 2001* of assessment related tax changes was not necessary. Based on the above data and the fact that the Province has already instituted a four year phase-in of assessment values on the roll, it appears clear that no further tax mitigation in the residential class is necessary.

In summary, based on our analysis of the reassessment data and the existence of a four year phase-in of values on the assessment roll, we believe any additional phase-in of the residential class under section 318 of the *Municipal Act, 2001* is not warranted.

Comments on Unusual Tax Increases after a Reassessment

Whenever a general reassessment occurs as was the case in 2013, there will always be a small number of large tax increases. Inevitably, when over 100,000 properties are valued, some errors and inaccuracies will occur. If a property is overvalued when a reassessment occurs, the remedy is to contact the Municipal Property Assessment Corporation and have the valuation corrected or appeal the assessment in accordance with the provisions of the Assessment Act.

When a property is undervalued or incorrectly classified to the taxpayers benefit, the taxpayer has no financial incentive to have the error or inaccuracy corrected. The error or inaccuracy will typically be corrected at the next reassessment and surface as an unusually large increase. Focusing on the amount or percentage of the increase obscures the real cause of the tax change (i.e. an inaccuracy in the valuation or classification of the property in the past). Phasing-in or capping taxes in these situations only perpetuates errors and inaccuracies in the assessment system and represents a major departure from the fundamental principle of fairness (i.e. that every property owner within a class pays the same tax rate on the market value of his or her property).

SUMMARY

Schedule "B" attached shows the various options recommended for Council's consideration. The schedule shows the % increase in each property class both including and not including the education component of the property tax. Schedule "B" also shows the ratios required to implement each identified alternative.

The percentages shown on schedule B represent **average** tax changes only. In reality virtually no-one is exactly at the average. Most property owners will be slightly above or slightly below the average.

Schedule "A" attached is a very important schedule. It shows how London's tax ratios compare to other municipalities in the Province. Schedule "A" indicates that the City of London currently has tax ratios in place which are competitive with other major cities in Ontario.

Properties in the capped property classes will still be subject to limitations on year-over-year tax increases and decreases in accordance with Provincial legislation. These limitations, however, would also be subject to options adopted to prevent properties from re-entering the Province's capping and clawing back system in the future as recommended in this report.

PREPARED BY:	**CONCURRED BY:**
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Attachments: