

CITY OF HAMILTON

**CORPORATE SERVICES DEPARTMENT
Legal Services Division**

Report to: Chair and Members Economic Development and Planning Committee	Submitted by: Peter A. Barkwell, City Solicitor
Date: April 15, 2008	Prepared by: Peter A. Barkwell 4636

SUBJECT: Tipping Fees for users of Liberty Energy facility, and other similar sites LS08005 (City Wide) – *Outstanding Business Item of Economic Development and Planning Committee*

RECOMMENDATION:

- (a) That Report LS08005 “Tipping Fees for Users of Liberty Energy Facility and other Similar Sites” be received; and
- (b) That the relevant Item be removed from the Outstanding Business List.

Peter A. Barkwell, City Solicitor
Legal Services

EXECUTIVE SUMMARY:

The Municipal Act does not provide any authority which would enable the City to charge a “tipping fee” to users of a waste disposal site not owned or operated by, or on behalf of, the City.

BACKGROUND:

At its meeting of April 1st, 2008, Committee provided the following direction to staff:

“(p) Investigation of Tipping Fee

On a Motion (Clark/Duvall), Committee directed staff to investigate the feasibility of charging a tipping fee for users of the Liberty Energy, and other similar sites, to be charged on a tonnage basis, and to report back to Committee. “

ANALYSIS/RATIONALE:

Section 391 of the Municipal Act provides a very broad authority for a municipality to impose fees and charges.

That authority is, however, specifically limited by the provisions found in Sections 393 and 394 of the Act.

Pertinent to the question before the Committee are the following restrictions:

- a) no fee or charge may be imposed for the use, purchase or consumption of property which is not owned or controlled by the municipality;
- b) no fee or charge may be imposed for the use, consumption or purchase of a service which is not provided by, or performed by, or paid for by, the municipality; and,
- c) no fee or charge may be imposed for a benefit received from a service which is not provided by, or performed by, or paid for by, a municipality.

In the instance of Liberty Energy, the disposal of waste at the site will not involve City of Hamilton owned or controlled property nor will the disposal service be provided by, performed by or paid for by the City of Hamilton.

Accordingly, there is no authority for charging a “tipping fee” to users of the Liberty Energy facility once it begins operation.

ALTERNATIVES FOR CONSIDERATION:

N/A

FINANCIAL/STAFFING/LEGAL IMPLICATIONS:

See Analysis/Rationale above.

POLICIES AFFECTING PROPOSAL:

N/A

RELEVANT CONSULTATION:

None.

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**