



CITY OF HAMILTON
CORPORATE SERVICES DEPARTMENT
Financial Planning and Policy Division

TO:	Chair and Members Audit, Finance and Administration Committee
COMMITTEE DATE:	October 13, 2015
SUBJECT/REPORT NO:	560 Ferguson Avenue North, Hamilton Wastewater Deferred Payment Arrangement (FCS15059)
WARD(S) AFFECTED:	Ward 2
PREPARED BY:	John Savoia (905) 546-2424, Extension 7298
SUBMITTED BY:	Mike Zegarac General Manager Finance and Corporate Services
SIGNATURE:	

RECOMMENDATION

That the General Manager of Finance and Corporate Services be authorized to enter into a deferred payment arrangement for wastewater fees owing by a tenant at 560 Ferguson Avenue North, Hamilton for the period beginning July 20, 2014 to June 30, 2015 in the amount of \$225,213.02 payable over a term of 3 years.

EXECUTIVE SUMMARY

Council approved on August 7, 2008, the Water and Wastewater Deferred Payment Arrangements Policy (refer to Report FCS08067), which requires that all water and/or wastewater deferred payment arrangements exceeding \$100,000 be referred to the Audit, Finance and Administration Committee for approval.

As such, Report FCS15059 is provided for the recommended authorization of a deferred payment arrangement for wastewater charges owing by a tenant at 560 Ferguson Avenue North, Hamilton (Sucro Can Canada Inc.). Sucro Can Canada Inc. (SCCI) is a liquid sugar producer that has been in operation since July 2014 occupying a portion of the former Lakeport facility which is owned by the Hamilton Port Authority.

Hamilton Water's Environmental Monitoring & Enforcement Section (EME) became aware in July 2014 that high strength wastewater was being discharged from this location into the City's sanitary sewer system. EME directed that a sampling manhole be installed and for the tenant to apply for a Sewer Discharge Permit (Permit) which can be issued to authorize overstrength wastewater discharge that exceeds the limit for one or more treatable parameters established by the City's Sewer Use By-law No. 14-090 ("By-law") to recoup the additional treatment costs. Treatable parameters are those

which can be treated at the City's Woodward Wastewater Treatment Plant (WWTP) and include; cBOD (cBiochemical Oxygen Demand), TSS (Total Suspended Solids), Total Kjeldahl Nitrogen, Total Phosphorous and Oil & Grease (animal/vegetable).

The wastewater discharged from this location between July 2014 and early May 2015 exceeded acceptable discharge limits for cBOD. During that time, a number of process changes had been implemented by SCCI with resultant wastewater achieving levels acceptable for treatment at the WWTP. SCCI has since been issued a Sewer Discharge Permit for overstrength discharge which is conditional on payment of the sewer discharge treatment charges commencing from July 20, 2014 and on an ongoing basis.

The cumulative fees owing from July 20, 2014 to June 30, 2015 has resulted in an outstanding balance which amounts to \$225,213.02; a significant amount that staff have been advised by SCCI could represent an undue financial hardship within the customer's current fiscal year if billed in its entirety, and would likely immediately jeopardize the viability of SCCI's operations in Hamilton.

The City's water and wastewater billing practices generally allow for customers to request to enter into an optional interest-free payment arrangement to address water/wastewater billings. In this case, it is recommended that SCCI pay the catch-up billing over a 3 year period.

There have been a number of significant catch-up or backbilled water/wastewater billings in the past involving industrial and institutional customers where deferred payment arrangements have been requested by customers, however, there have been only a couple of instances since 2008 where staff have required Council approval for an arrangement exceeding \$100,000. Deferred interest-free payment arrangements are a reasonable measure to ensure the City recovers water and wastewater/storm revenue without creating undue hardship for customers.

Report FCS15059 seeks approval for a deferred payment arrangement for SCCI, whereby, \$225,213.02 for sewer discharge fees will be paid via equal quarterly payments incurring no interest charges during the proposed 3 year repayment period. SCCI has made recent payments amounting to approximately \$50,350 towards their sewer discharge charges.

Alternatives for Consideration – See Page 4

FINANCIAL – STAFFING – LEGAL IMPLICATIONS (for recommendation(s) only)

Financial: Wastewater revenue recovery of \$225,213.02 will be realized in a manner that is reasonable and is not expected to create undue financial hardship for a relatively new industrial customer.

Staffing: None identified.

Legal: The City's ability to recover water and wastewater revenue is not impaired by entering into a deferred payment arrangement with the customer. Generally speaking, when a deferred payment instalment for this type of fee becomes delinquent, the outstanding balance can be immediately transferred to the property tax roll and have priority lien status in accordance with subsection 1(2.1) of the *Municipal Act, 2001*.

SCCI has been issued a Sewer Discharge Permit for overstrength discharge on July 14, 2015, which includes conditions that the permit may be suspended or revoked if SCCI fails to make a payment or payments are not made in accordance with the deferred payment arrangement.

HISTORICAL BACKGROUND (Chronology of events)

Report FCS15059 is being brought forward in accordance with the Water and Wastewater Deferred Payment Arrangements Policy approved by Council on August 7, 2008 (refer to Report FCS08067). The Policy requires that all water and/or wastewater deferred payment arrangements exceeding \$100,000 be referred to the Audit, Finance and Administration Committee for approval.

In July 2014, Hamilton Water's Environmental Monitoring & Enforcement Section (EME) became aware of a discharge into a catch basin on the loading dock at 560 Ferguson Ave N. The subsequent investigation found a new tenant had commenced liquid sugar production in a portion of the former Lakeport facility owned by Hamilton Port Authority, and was discharging high strength wastewater from their sugar water manufacturing process into the City's sanitary sewer system. EME directed that a sampling manhole be installed and for the tenant to apply for a Sewer Discharge Permit under the Sewer Use By-law No. 14-090 which can be issued to authorize overstrength wastewater discharge that exceeds the limit for one or more treatable parameters established by the By-law to recoup the additional treatment costs.. Treatable parameters are those which can be treated at the City's Woodward wastewater treatment plant (WWTP) and include: cBOD (cBiochemical Oxygen Demand), TSS (Total Suspended Solids), Total Kjeldahl Nitrogen, Total Phosphorous and Oil & Grease (animal/vegetable).

The wastewater discharged from July 2014 until early May 2015 exceeded acceptable discharge limits for cBOD. During this time, a number of process changes were implemented at the property with resulting wastewater achieving levels acceptable for treatment at the WWTP.

The cumulative discharge fees from July 20, 2014 to June 30, 2015 has resulted in an outstanding balance which amounts to \$225,213.02; a significant amount that staff understand would represent an undue financial hardship within the customer's current

fiscal year if billed in its entirety, potentially jeopardizing the viability of SCCI's operations in Hamilton.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

As the amount proposed for a deferred payment arrangement exceeds \$100,000, the City's Water and Wastewater Deferred Payment Arrangements Policy is applicable.

RELEVANT CONSULTATION

City Manager's Office – Legal Services Division has been consulted in the preparation of this report.

Public Works – Hamilton Water Division has reviewed and provided input into this report.

ANALYSIS AND RATIONALE FOR RECOMMENDATION (Include Performance Measurement/Benchmarking Data if applicable)

Not applicable.

ALTERNATIVES FOR CONSIDERATION

(Include Financial, Staffing, Legal and Policy Implications and Pros and Cons for each alternative)

An alternative is for the recommended payment arrangement to not be approved by Council, resulting in the current outstanding balance of \$225,213.02 related to sewer discharge fees for SCCI becoming immediately payable. This option is not recommended as the financial viability of SCCI most likely would be significantly threatened with a strong likelihood of its operations ceasing in Hamilton.

ALIGNMENT TO THE 2012 – 2015 STRATEGIC PLAN

Strategic Priority #1

A Prosperous & Healthy Community

WE enhance our image, economy and well-being by demonstrating that Hamilton is a great place to live, work, play and learn.

Strategic Objective

- 1.1 Continue to grow the non-residential tax base.
- 1.6 Enhance Overall Sustainability (financial, economic, social and environmental).

Strategic Priority #2

Valued & Sustainable Services

WE deliver high quality services that meet citizen needs and expectations, in a cost effective and responsible manner.

Strategic Objective

- 2.2 Improve the City's approach to engaging and informing citizens and stakeholders.

APPENDICES AND SCHEDULES ATTACHED

Not applicable.