



**CITY OF HAMILTON**  
**CORPORATE SERVICES DEPARTMENT**  
*Financial Planning, Administration and Planning Division*

<b>TO:</b>	Chair and Members Audit, Finance and Administration Committee
<b>COMMITTEE DATE:</b>	August 15, 2018
<b>SUBJECT/REPORT NO:</b>	Fees and Charges for the Supply of Raw Water to 690 Strathearne Avenue North (FCS18049(a)) (Ward 4)
<b>WARD(S) AFFECTED:</b>	Ward 4
<b>PREPARED BY:</b>	John Savoia (905) 546-2424 Ext. 7298
<b>SUBMITTED BY:</b>	Brian McMullen Director, Financial Planning, Administration and Policy
<b>SIGNATURE:</b>	

**RECOMMENDATIONS**

- (a) That charges for raw water supplied to 690 Strathearne Avenue North by the City of Hamilton be imposed at the following rates, effective September 1, 2018:
  - (i) metered raw water at the rate of \$0.1118 per cubic metre;
  - (ii) daily raw water fixed charges at the following rates:

Meter Size	Daily Rate
200 mm	\$ 27.20
250 mm	\$ 39.10
300 mm	\$ 57.80

- (b) That staff advises the owner of 690 Strathearne Avenue North, currently ArcelorMittal Long Products Canada, that the continued supply of raw water by the City to 690 Strathearne Avenue North is contingent upon the following conditions being met:

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- (i) that effective September 1, 2018, in addition to other flow-through costs and expenses described in Report FCS18049(a), the owner pays water rates set out in recommendation (a) in Report FCS18049(a) for the supply of raw water to the property;
  - (ii) that by December 23, 2018, the owner enters into a Raw Water Supply Agreement with the City of Hamilton on such terms as are set out in recommendation (c) in Report FCS18049 / LS18014;
  - (iii) that by December 23, 2018, the owner enters into an Easement Agreement with the City of Hamilton to support the existing pipeline that crosses City lands on such terms as are set out in recommendation (c) in Report FCS18049 / LS18014;
  - (iv) that the owner installs a backflow prevention device that meets City requirements to protect against any backflow conditions at its sole expense;
- (c) That the City Solicitor be authorized and directed to prepare all necessary by-laws to implement Recommendation (a) of Report FCS18049(a) which may include necessary amendments to be made to the 2018 Water and Wastewater / Storm Fees and Charges By-law 17-265 and Waterworks By-law R84-026;
- (d) That the General Manager of Finance and Corporate Services be directed to report back to the Audit, Finance and Administration Committee in January 2019 regarding the implementation of Recommendation (b) of Report FCS18049(a).

## **EXECUTIVE SUMMARY**

The purpose of Report FCS18049(a) is to seek approval from Council to impose updated raw water charge rates to continue the supply of raw water (chlorinated non-potable water) to 690 Strathearne Avenue, currently owned by ArcelorMittal Long Products Canada (AMLPC).

In 1965, the City had entered into an agreement with the former Steel Company of Canada (Stelco) to supply chlorinated raw water from a raw water pumping station (historically known as the Stelco Pumping Station) (Raw Water Pumping Station), located at the City's Woodward Avenue Water Treatment Plant (WTP). In addition, in 1966, the same two parties entered into an easement agreement which allowed Stelco to construct, maintain and operate a watermain for the conveyance of the chlorinated raw water from the Raw Water Pumping Station to Stelco's property located at 690 Strathearne Avenue North to two Stelco facilities, #2 Rod Mill and Stelwire over City lands (Easement).

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Both the Raw Water Agreement and the Easement expired on April 26, 1985. However, the original two parties and their successors, namely the City and AMLPC, have substantively, to date, continued to act in accordance with the terms and conditions as are contained in the original Raw Water Agreement and Easement, except for certain payments required by those agreements which are not being paid to the City.

In 2004, Stelco closed the #2 Rod Mill and the mill was dismantled. Subsequently, the property was sold to the Hamilton Port Authority and the property's connection to the raw water pipeline was severed. AMLPC's 2005 purchase of Stelco's former Stelwire operation located at 690 Strathearne Avenue North resulted in AMLPC's wire plant being the sole customer of this chlorinated raw water supply from the City. This acquisition also led to AMLPC becoming the owner of the watermain connecting the Stelco Pumping Station to AMLPC's operations. AMLPC has indicated to staff that the raw water supply is an essential requirement to the viability of their wire plant in Hamilton.

Following the April 23, 2018 Report FCS18049 / LS18014, staff entered into discussions with AMLPC seeking to negotiate updated raw water supply and an Easement Agreement for the continued supply of raw water to 690 Strathearne Avenue North. Staff forwarded the draft raw water supply agreement to AMLPC on June 12, 2018 asking for comments on the agreement, if any, by no later than June 29, 2018, which deadline was subsequently extended to July 16, 2018, so to ensure that the new agreement could be finalized and the proposed raw water rate of \$0.1118/m<sup>3</sup> implemented by no later than August 1, 2018. Staff also requested that steps be taken respecting the new Easement Agreement.

On July 19, 2018 AMLPC provided, without prejudice, correspondence to the City. Comments on the draft agreement were not provided and an agreement respecting the new raw water rate was not reached.

Recommendation (a) to Report FCS18049(a) sets to impose updated raw water supply rates to ensure Hamilton ratepayers receive a rate of return over and beyond the City's cost to provide the raw water supply to AMLPC.

Recommendation (b) to Report FCS18049(a) outlines the requirements that must be addressed by AMLPC by December 23, 2018 to ensure the continued supply of raw water by the City:

- AMLPC to enter into a Raw Water Supply Agreement;
- AMLPC to enter into an Easement Agreement to support AMLPC's existing pipeline that crosses City lands; and

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- AMLPC is required to install a backflow prevention device that meets City requirements to protect against any backflow conditions at its expense.

***Alternatives for Consideration – Not Applicable***

**FINANCIAL – STAFFING – LEGAL IMPLICATIONS**

**Financial:** Based on the raw water volume supplied to AMLPC in 2017 and applying the recommended updated raw water rates, the City's Rate budget should begin to receive a net positive benefit.

**Staffing:** No impact to current staffing levels.

**Legal:** Sections 9, 10 and Part XII of the *Municipal Act, 2001*, as amended, and the Regulations thereto enable a municipality to impose fees or charges on persons for the supply of water and the use of a sewage system.

By entering into a new raw water supply agreement with AMLPC, the City will commit to continuing to provide raw chlorinated water to AMLPC, subject to the various terms and conditions contained within a new agreement.

**HISTORICAL BACKGROUND**

In 1965, the City had entered into an agreement with the former Stelco to supply chlorinated raw water from the Raw Water Pumping Station, located at the City's WTP. In addition, the same two parties entered into an Easement Agreement which allowed Stelco to construct, maintain and operate a watermain for the conveyance of the chlorinated raw water from the Raw Water Pumping Station to Stelco's property located at 690 Strathearne Avenue North over City lands.

Both the Raw Water Agreement and the Easement expired on April 26, 1985. However, the original two parties, and their successors, namely the City and AMLPC, have substantively, to date, continued to act in accordance with the terms and conditions as are contained in the original Raw Water Agreement and Easement, except for certain payments required by those agreements which are not being paid to the City.

Key elements of the Raw Water Supply Agreement and Easement Agreement included:

- The City constructed a water intake from Lake Ontario to its WTP located at Woodward Avenue in Hamilton.

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- Stelco, at its expense, constructed a pumping station at the WTP site for the purpose of pumping chlorinated raw water to Stelco's operations. The ownership of the Raw Water Pumping Station was transferred to City upon completion of the pumping station's construction with Stelco to pay for any future replacement / expansion of the station or for any building and equipment maintenance and repairs that are required from time to time.
- Stelco was permitted to construct and maintain, at its own expense, a watermain to convey the raw water from the Raw Water Pumping Station to Stelco's operations. This watermain is the subject of the Easement where it crossed over City lands that included an annual easement charge of \$511.50.
- Stelco agreed to pay to the City for all chlorinated raw water delivered to Stelco at a rate of \$0.01 per 1,000 gallons (\$0.0022/m<sup>3</sup>), provided that, in any event, Stelco paid annually the total of the Fixed Annual Charges of \$20,850 (as defined in the Agreement), the direct labour and material costs and the cost of electricity incurred in chlorinating and delivering such water.

Since the fourth quarter of 2004 when Stelco's #2 Rod Mill was closed and demolished, raw water demand has declined considerably. The Rod Mill property was sold to the Hamilton Port Authority and the property's connection to the raw water main was severed. AMLPC's 2005 purchase of Stelco's former Stelwire operation located at 690 Strathearne Avenue North resulted in this Mill being the sole customer of the chlorinated raw water supply from the City through the Raw Water Pumping Station. This acquisition also led to AMLPC becoming the owner of the watermain connecting the Raw Water Pumping Station to AMLPC's operations. Over the past decade, the City has raised significant concerns regarding the Raw Water Pumping Station's reliability and the associated capital maintenance requirements this facility will require to maintain its operation.

The raw water rate established in the 1965 Raw Water Supply Agreement was intended to cost recover the City's direct costs incurred to chlorinate and deliver raw water to the Raw Water Pumping Station. There are a number of cost elements that the City incurs related to the raw water supply that have not been accounted for within the raw water rate that has been charged to date, which include but are not limited to:

- Allocation of costs associated with the City's water intake and zebra mussel control infrastructure upstream of the Raw Water Pumping Station;
- Operating and maintenance costs of the raw water pipelines upstream of the Raw Water Pumping Station;
- Overhead costs associated with supplying water to the Raw Water Pumping Station;

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- Inflationary impacts related to the direct labour, material costs and the cost of electricity incurred in chlorinating and delivering rate water to the Raw Water Pumping Station. Note that the Consumer Price Index has increased from 1965 to 2018 by 684% with an average annual inflation increase of 3.7%;

Additionally, the City earns a rate of return from its supply of potable water to Haldimand County and the Regional Municipality of Halton and, as such, should receive a rate of return for the City raw water supplied to a commercial enterprise.

Staff has reviewed available billing records. The Fixed Annual Charges set at \$20,850 and Annual Easement Charge of \$511.50 have not been charged most likely since the Raw Water Agreement and the Easement expired on April 26, 1985. Furthermore, updated Fixed Charges and Easement Right Fees have not been charged to AMLPC.

In 2017, over one million cubic metres of chlorinated raw water was supplied by the City to AMLPC at a cost of only \$3,100. For comparison, the same volume of water at the 2017 City potable rate would equate to over \$1.5M. There exists a comparable municipal raw water supply system in Durham Region and at their 2017 raw water rate, the same volume of water would amount to nearly \$306K.

Report FCS18049(a) seeks Council's approval of updated raw water rates to ensure Hamilton ratepayers receive a rate of return over and beyond the City's cost to provide the raw water supply to AMLPC.

## **POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS**

Sections 9, 10 and Part XII of the *Municipal Act, 2001*, as amended and the Regulations thereto enable a municipality to impose fees or charges on persons for the supply of water and the use of a sewage system.

The Raw Water Pumping Station was constructed at Stelco's sole expense with the ownership transferred to the City upon completion of the construction. The building and equipment maintenance and repairs at the Raw Water Pumping Station have been paid by Stelco and its successor AMLPC in accordance with the terms of the now expired Agreement and will continue to be paid by AMLPC under any future proposed agreement. AMLPC also pays the cost of the chlorinated raw water delivered to 690 Strathearne Avenue North, as well as, the direct labour and material costs and the cost of electricity incurred in chlorinating and delivering such water. Recommendation (a) of Report FCS18049(a) increases the water rate payable by AMLPC to ensure that Hamilton ratepayers receive a rate of return over the City's cost to provide the raw water supply to AMLPC. Similarly, the City has presented AMLPC a new annual charge for easement rights commensurate with current market value of those rights.

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Any bonusing concerns that may arise in connection to Section 106 of the *Municipal Act, 2001*, are expected to be addressed through the implementation of Recommendations (a) and (b) of Report FCS18049(a). Should that not be the case, staff will report back to Committee for further instructions.

## **RELEVANT CONSULTATION**

Corporate Services – Legal Services Division has been consulted in the preparation of this Report.

Public Works Department – Hamilton Water Division has been consulted and supports this Report's recommendations.

## **ANALYSIS AND RATIONALE FOR RECOMMENDATIONS**

The City can support the continuation of the unique legacy raw water supply to AMLPC and as such, staff has been in active discussion with AMLPC with the objective of the two parties being able to enter into a raw water supply agreement by August 2018 and an easement agreement later this year. On July 19, 2018 AMLPC provided, without prejudice, correspondence to the City. Comments on the draft raw water supply agreement sent to AMLPC by the City were not provided and an agreement respecting the new raw water rate was not reached. Staff recommends that the updated raw water rates are imposed on AMLPC while discussions and negotiations with AMLPC respecting the new raw water supply and easement agreements continue.

Recommendation (a) to Report FCS18049(a) sets out updated raw water supply rates to ensure the City of Hamilton ratepayers receive a rate of return over and beyond the City's cost to provide the raw water supply to AMLPC.

The reliable supply of raw water provides AMLPC an exceptionally low-cost source for processed water. The City has the capacity to continue to provide this raw water supply within its Permit to Take Water (issued from the Ministry of Environment, Conservation and Parks) from Lake Ontario.

Staff conducted an online review and have identified that Durham Region provides a similar municipal chlorinated raw water supply. In their case, three industrial customers are serviced with two raw water pumping stations with separate distribution mains. The variable raw water rate Durham charges is reviewed annually as part of their Rate budget process and is linked to their potable water rate. Durham's 2018 raw water has been approved at \$0.301/m<sup>3</sup> that is approximately 30% of their potable water rate. The raw water rate includes a share of the Whitby Water Treatment Plant's operating costs and overhead costs. The rate does not include capital costs as the customers pay capital costs separately from the raw water rate.

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To determine an updated raw water rate for 690 Strathearne Avenue North in Hamilton, staff has considered the following:

1. Electrical requirements and cost associated with the delivery of the water from Lake Ontario to the Raw Water Pumping Station (not including any electricity costs for pumping the water from the Raw Water Pumping Station to 690 Strathearne Avenue North, which continues to be a "flow-through" cost);
2. Cost of chlorination related to algae and zebra mussel control;
3. Allocation of costs associated with the City's water intake and zebra mussel control infrastructure upstream of the Raw Water Pumping Station;
4. Operating and maintenance costs of the raw water pipelines upstream of the Raw Water Pumping Station;
5. Overhead costs associated with supplying water to the Raw Water Pumping Station;
6. The Consumer Price Index has increased from 1965 to 2018 by 684%; with an average annual inflation increase of 3.7%;
7. The rates of return the City derives from its supply of potable water to Haldimand County and the Regional Municipality of Halton;
8. Durham's current approved raw water rate of \$0.301/m<sup>3</sup>, which is 30% of the potable water rate;
9. The City's 2018 potable water rate is \$1.49/m<sup>3</sup>; and
10. Linking the raw water rate to the City's potable rate with the intent the rate would increase over time as Council approves future potable water rates.

The recommended variable raw water rate of \$0.1118 per cubic metre equates to approximately 7.5% of the City's potable water rate.

For all potable water accounts, the City charges a fixed charge based on the size of the meter. Similarly, it is recommended that the City commence to charge fixed charges to AMLPC at the same rates that is charged to all water consumers.

As per Recommendation (b) of Report FCS18049(a), for the supply of raw water by the City to continue longer term, AMLPC will need to meet the following conditions by December 23, 2018:

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- (i) AMLPC to enter into a Raw Water Supply Agreement;
- (ii) AMLPC to enter into an Easement Agreement to support AMLPC's existing pipeline that crosses City lands;
- (iii) AMLPC is required to install a backflow prevention device that meets City requirements to protect against any backflow conditions at its expense.

Staff will report back to Council in January 2019 with respect to above.

### **ALTERNATIVES FOR CONSIDERATION**

N/A

### **ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN**

#### **Economic Prosperity and Growth**

*Hamilton has a prosperous and diverse local economy where people have opportunities to grow and develop.*

#### **Clean and Green**

*Hamilton is environmentally sustainable with a healthy balance of natural and urban spaces.*

### **APPENDICES AND SCHEDULES ATTACHED**

N/A

JS/dt