



CITY OF HAMILTON
CORPORATE SERVICES DEPARTMENT
Financial Planning and Policy Division

TO:	Chair and Members Audit, Finance and Administration Committee
COMMITTEE DATE:	February 7, 2019
SUBJECT/REPORT NO:	Supply of Raw Water to 690 Strathearne Avenue North (FCS18049(b)) (Ward 4)
WARD(S) AFFECTED:	Ward 4
PREPARED BY:	John Savoia (905) 546-2424 Ext. 7298
SUBMITTED BY:	Cindy Mercanti Director, Customer Service and POA Acting Director, Financial Planning and Policy
SIGNATURE:	

RECOMMENDATIONS

- (a) That the amount of \$18,500 be imposed on the owner of 690 Strathearne Avenue North, currently ArcelorMittal Long Products Canada (AMLPC), for the continued use of City of Hamilton ("City") owned lands through to December 31, 2019, for the purpose of a private raw water pipeline owned by AMLPC to convey raw water supplied by the City to 690 Strathearne Avenue North;
- (b) That staff advises the owner of 690 Strathearne Avenue North, currently AMLPC, that the continued supply of raw water by the City to 690 Strathearne Avenue North through to December 31, 2019, is contingent upon the owner continuing to pay, in addition to other flow-through costs and expenses described in Report FCS18049(b), water rates for the supply of raw water to the property, as approved by Council.
- (c) That staff advises the owner of 690 Strathearne Avenue North, currently AMLPC, that the continued supply of raw water by the City to 690 Strathearne Avenue North beyond December 31, 2019 is contingent upon the following conditions being met:
 - (i) that by December 2, 2019, the owner enter 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;

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- (ii) that by December 2, 2019, 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;
- (iii) that by December 2, 2019, the owner installs a backflow prevention device that meets City requirements to protect against any backflow conditions at its sole expense;
- (d) That the City Solicitor be authorized and directed to prepare all necessary by-laws to implement subsection (a);
- (e) That the General Manager of Finance and Corporate Services be directed to report back to the Audit, Finance and Administration Committee by February 2020 regarding the implementation of Recommendation (b) of Report FCS18049(b).

EXECUTIVE SUMMARY

In August 2018, Council directed the General Manager of Finance and Corporate Services to report back to the Audit, Finance and Administration Committee in January 2019 regarding the implementation of a continued raw water supply to 690 Strathearne Avenue North. The purpose of this Report is to provide such an update.

In August 2018, Council also approved the continued supply of raw water (chlorinated non-potable water) to 690 Strathearne Avenue, currently owned by ArcelorMittal Long Products Canada (AMLPC) contingent upon the following conditions being met:

- a) that effective September 1, 2018, in addition to other flow-through costs and expenses described in Report FCS18049(a), the owner pay water rates set out in recommendation (a) in Report FCS18049(a) for the supply of raw water to the property;
- b) that by December 23, 2018, the owner enter 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;
- c) 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;
- d) that the owner installs a backflow prevention device that meets City requirements to protect against any backflow conditions at its sole expense.

Condition a) was implemented as of September 1, 2018, as approved. Subsequently, with Council's approval of the 2019 Rate Budget (refer to FCS18087), the charges for raw water increased as of January 1, 2019 as follows:

- (i) metered raw water at the rate of \$0.1163 per cubic metre;
- (ii) daily raw water fixed charges at the following rate:

Meter Size	Daily Rate
200 mm	\$28.80

Conditions b) thru d) have not been completed by AMLPC by the December 2018 timeline that had been set.

On December 19, 2018, AMLPC advised the City that it is considering the possibility of reducing or eliminating its raw water consumption with the potential implementation of a cooling tower. As such, AMLPC has requested a timeline extension for it to review and enter into a raw water supply and easement agreements as per the aforementioned conditions. AMLPC has been in active discussions with Hamilton Water staff regarding backflow protection requirements in relation to the current raw water supply. Therefore, the recommendations contained in this Report essentially provide a one-year extension to December 31, 2019, subject to certain conditions being met. This Report also recommends the conditions under which the raw water supply would be continued beyond December 31, 2019.

Recommendation (b) of this Report FCS18049(b) provides AMLPC ample time for it to complete its business case review of its proposed cooling tower project and should their need for the raw water supply continue beyond December 31, 2019, AMLPC has until December 2, 2019 to enter into a raw water supply and easement agreements and address any backflow prevention requirements to the City's satisfaction.

Recommendation (a) of this Report FCS18049(b) relates to a fee payable to the City by AMLPC in the amount of \$18,500 for the continued use of City owned lands through to December 31, 2019, for the purpose of a private raw water pipeline owned by AMLPC to convey raw water supplied by the City to 690 Strathearne Avenue North.

Alternatives for Consideration – Not Applicable

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: The 2019 Rate Supported Budget includes \$150 K in revenues related to the supply of raw water to AMLPC.

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 as well as for the use of its property.

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.

Public notice has been given in accordance with the City's Public Notice Policy By-law with respect to the fees identified in the recommendations to this Report.

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.
- 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/m³), 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.

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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.

In August 2018, Council approved the continued supply of raw water (chlorinated non-potable water) to 690 Strathearne Avenue, currently owned by ArcelorMittal Long Products Canada (AMLPC) contingent upon the following conditions being met:

- a) that effective September 1, 2018, in addition to other flow-through costs and expenses described in Report FCS18049(a), the owner pay water rates set out in recommendation (a) in Report FCS18049(a) for the supply of raw water to the property;
- b) that by December 23, 2018, the owner enter 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;
- c) 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;
- d) that the owner installs a backflow prevention device that meets City requirements to protect against any backflow conditions at its sole expense;

Condition a) was implemented as of September 1, 2018, as approved. Subsequently, with Council's approval of the 2019 Rate Budget (refer to FCS18087), the charges for raw water increased as of January 1, 2019 as follows:

- (iii) metered raw water at the rate of \$0.1163 per cubic metre;
- (iv) daily raw water fixed charges at the following rate:

Meter Size	Daily Rate
200 mm	\$28.80

Report FCS18049(b) seeks Council's approval to extend to December 2, 2019 the timeframe by which AMLPC must address conditions b) to d) outlined above in order for the City to continue the supply of raw water 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, as well as for the use of its property.

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 as well as the direct labour and material costs and the cost of electricity incurred in chlorinating and delivering such water ("flow-through costs and expenses").

Recommendation (a) of Report FCS18049(b) relates to the imposition of a fee for the continued use of City owned lands through to December 31, 2019, for the purpose of the private raw water pipeline owned by AMLPC to convey raw water supplied by the City to 690 Strathearne Avenue North.

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 the recommendations contained in this Report. Should that not be the case, staff will report back to Committee for further instructions.

Public notice has been given in accordance with the City's Public Notice Policy By-law with respect to the fees identified in the recommendations to this Report.

RELEVANT CONSULTATION

Corporate Services – Legal and Risk Management 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

N/A

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