SUBJECT: Funding Methodology for Municipal Infrastructure Extensions Review and Update (City Wide) - (TOE02005b/FCS02026b/PED07248)

RECOMMENDATION:

(a) That the Funding Methodology for Municipal Infrastructure Extensions Policy contained in Appendix “A” to Report TOE02005b/FCS02026b/PED07248, be approved as the City of Hamilton’s cost recovery policies and procedures for extensions of water, sanitary sewer and storm sewer services for existing residences and businesses;
(b) That the Funding Methodology for Municipal Infrastructure Extensions Policy contained in Appendix “A” to Report TOE02005b/FCS02026b/PED07248 replace the “Policies for Cost Recovery of Municipal Infrastructure Extensions under Section 221 of the Municipal Act’, approved by City Council May 15, 2002 as part of Item 39 of Report 02-019 of the Committee of the Whole, and as amended by Item 19 of Report 02-027 of the Committee of the Whole approved by City Council on July 10, 2002;

(c) That the procedures and policies outlined in Report TOE02005/FCS02026, approved by City Council on May 15, 2002, as part of Item 39 of Report 02-019 of the Committee of the Whole, for sidewalk projects, continue unchanged;

(d) That the following projects identified in subsection (c) of Item 39 of Report 02-019 of the Committee of the Whole, which was approved by City of Hamilton Council on May 15, 2002 no longer be grandfathered under the Funding Methodology for Municipal Infrastructure Extensions Policy:

(i) Miles Road - 265m south of Rymal to 314m south: Sanitary $35,000 and Storm $64,000,

(ii) Nebo Road - Sanitary $400,000;

(e) That the General Manager of Finance and Corporate Services be authorized and directed to prepare the necessary cost recovery by-laws in accordance with the Funding Methodology for Municipal Infrastructure Extensions Policy contained in Appendix A to Report TOE02005b/FCS02026b/PED07248 for the following sanitary sewer construction projects:

(i) West 5th Street - 40 metres north of Rymal Road to 120m south of Stone Church Road,

(ii) Rymal Road East - Dakota Drive to west of Glover Road;

(f) That in cases where Development Charges have fully funded the municipal servicing infrastructure construction project, the General Manager of Finance and Corporate Services is hereby authorized and directed to prepare the necessary cost recovery by-laws in accordance with the approved flat fee charges in force at the time;

(g) That the City Solicitor be authorized and directed to prepare the appropriate by-law to reflect the flat fees set out in Schedule 1 to the Funding Methodology for Municipal Infrastructure Extensions Policy attached as Appendix “A” to Report TOE02005b/FCS02026b/PED07248.
EXECUTIVE SUMMARY:

The Municipal Act, 2001 authorizes any municipality or local board to pass by-laws imposing fees or charges on any class of persons for services or activities provided or done by or on behalf of it. On May 15, 2002 City Council adopted the procedures and policies outlined in Report TOE02005/FCS02026 entitled “Funding Methodology for Municipal Infrastructure Extensions Policy”.

The Policy is a full cost recovery mechanism for the capital costs of extension projects including water main, sanitary sewer, or storm sewers or any combination thereof, that are not funded by land owners through the development process. To date the Policy has been successful in recovering the actual project costs for municipal service extensions that the City has constructed as a result of the petition process.

The original Policy contained references to the body of the staff report which had to be reviewed each time the Policy was read. Therefore, to make the Policy more user-friendly, the Policy has been re-formatted so that all of the policies and procedures are now contained in one stand-alone document. Some wording has also been added to clarify the meaning of the original Policy wording.

In addition, it is proposed that the following items be addressed in the Policy:

1. The removal of all remaining “Grandfathered Projects” from the Policy.
2. The addition of a clause which will permit the City to collect monies for “Developer Initiated” projects on behalf of the developer. This would include municipal services constructed by the developer external to the development land.
3. The introduction of a flat fee for existing residences/businesses to connect to the municipal service where the project is wholly or partially funded by Development Charges.
4. The removal of Plant Infrastructure Recovery Costs from the Policy.

Items with regard to sidewalks in the previous Report TOE02005/FCS02026, approved by Council on May 15, 2002, remain unchanged.

It is therefore recommended that the Funding Methodology for Municipal Infrastructure Extensions Policy, attached as Appendix “A” to this report, be approved by Committee and Council.

BACKGROUND:

The Municipal Act, 2001 authorizes any municipality or local board to pass by-laws imposing fees or charges on any class of persons for services or activities provided or done by or on behalf of it. On May 15, 2002, City Council approved the Policy. The Policy was adopted by Council to implement a consistent and fair funding approach across the City for water and sanitary and storm sewer extension works. Under the previous Local Improvement Act, the previous Municipalities only collected an estimated 50% or less of the cost of installing the municipal service. In order to limit the City’s financial exposure with regards to water, sanitary and storm extension projects, the City adopted the Policy in 2002. Since that time, there have been a number of municipal infrastructure extension projects constructed and there have been several changes suggested by staff to improve
the Policy to become more inclusive of municipal works and opportunities for cost recovery.

**ANALYSIS/RATIONALE:**

On May 15, 2002 City Council adopted the Policy which outlined a full cost recovery mechanism for the capital costs of extension projects including water mains, sanitary sewers, water services or storm sewers, or any combination thereof, that are not funded by the land owners through the development process.

There are sections of the previously approved Policy that can be deleted since they are no longer applicable. The proposed changes to the Policy are outlined as follows:

**Municipal Servicing Costs for “Developer Initiated” Works**

Through the approval of Planning Act applications, a number of municipal services are constructed either on public roadways or within easements outside of the actual development lands. These services are sized and constructed to also benefit the adjacent property owners on these roadways that are external to the development lands. At present, the agreements between the City and the “developer” contain schedules which require that the City use best efforts to collect from the owners located outside the development lands but adjacent to the new services. The City currently uses the guidelines in the Policy to assign the costs outlined in the development agreement and to prepare the report to Committee accompanied by the appropriate Municipal Act By-law. The benefiting owners external to the development lands would pay the City the outstanding costs, as outlined in the Municipal Act by-law upon connection to the service. Upon receipt of these monies, the City would then reimburse the “developer" as per the conditions of the development agreement.

This proposed amendment would incorporate this current practice into the actual Policy.

**Municipal Servicing Costs funded through Development Charges**

A number of municipal services are constructed outside of a development or Planning Act application. Specifically, the Development Charges By-law identifies municipal services that will be wholly or partially funded by Development Charges. These municipal services may be constructed on existing roadways with existing development adjacent to the municipal service being constructed.

When costs for the municipal service are **fully funded** by Development Charges, currently the cost of the municipal services to the adjacent existing residence/business is nil. In fairness to other property owners that pay for the entire cost of the mainline municipal service extensions, it is appropriate to also charge these adjacent owners for this benefit when they connect to the municipal service. This would be charged as a flat fee and would be based on the average cost between “green field development” construction and construction on an existing roadway. These flat fees would be reflected in a cost recovery by-law and the monies collected would be placed in the appropriate City Development Charges account.

In cases where Development Charges have **partially funded** the main line service construction, the apportioned share of the construction cost to the adjacent owner will be their share of the actual construction cost or the flat fee, whichever is the greatest. With
this funding proposal, all existing residents/businesses connecting to the municipal service will pay their equitable share. Again, these fees would be reflected in a cost recovery by-law and the monies collected would be placed in the appropriate City account.

The current proposed flat fee charges are:

- Sanitary Sewer Main line Fee: $6,000.00
- Storm Sewer Main line Fee: $7,000.00 (larger pipe size for storm sewer)
- Water Main Main line Fee: $4,200.00

As noted above, these flat fees have been calculated based on the average cost between “green field development” construction and construction on an existing roadway. The flat fees will be adjusted annually by the Construction Data Index. In addition to any cost recovery by-laws, the flat fees will be reflected in the appropriate City fees and charges by-law.

These flat fees exclude the following items: sewer lateral – public portion construction cost within the municipal right of way, water service lateral construction cost within the municipal right of way, Permit Connection fee and all works on private property.

Future Plant Infrastructure Recovery Costs

The Committee report in 2002 stated that a future cost for plant infrastructure (including reservoirs and outstations) will be charged when existing development would connect to the water and waste water services. This charge would be based on the water and sewage capacity component of Hamilton’s Development Charge as updated from time-to-time. The justification for this charge at that time stemmed from the fact that every time an additional unit connects to the water/sewage system, future capacity for that service is diminished by that unit. In 2002, it was stated that Council would be updated on this matter once the development charges component for this infrastructure had been determined.

Staff has again reviewed this matter and now recommend that this “future plant infrastructure recovery cost” not be implemented or charged to existing development connecting to the water and waste water services based on the following rationale:

- Much of the existing municipal servicing infrastructure has been funded by many different sources in the past and it is difficult to determine which source funding the monies should be credited to.
- There was adequate capacity in the water/waste water system when most of the existing development now connecting to the municipal services was constructed.
- We estimate that 100 to 200 existing residences would be included in this charge. It is difficult to justify a charge to previous development that could not take advantage of the “plant infrastructure” since the water or sewers in their street may not have been available when the residence was constructed.

Grandfathered Projects

In 2002, Council also approved a number of “grandfathered” municipal service extension projects. The term “grandfathered” project means that the sewer and water extension will be installed by the City and that adjacent owners would pay their apportioned share of
the work upon connection to the municipal service, instead of upon completion of construction. The current status of these projects is outlined below.

**Constructed Projects**

1. **Seabreeze** - Glover to McNeilly and McNeilly - Seabreeze to South Service: Sanitary $804,000.
2. **Lochside** - McCollum to end: Sanitary $187,300.
3. **Stone Church** - West 5th to Upper James: Sanitary $125,600 and Storm $64,000.
4. **Glancaster Road** - Sanitary $700,000. Since the initial approval, the funding was modified and the benefiting owners would pay upon the completion of construction.
5. **West 5th - 40 m north of Rymal to Stone Church.** On December 15, 2004, Council approved the following resolution:

   “That the grandfathered Municipal Act Project ID 5169880833 (MA –West 5th-40m north of Rymal) be repealed and a new capital Project ID 5160480483 (Mewburn and Sheldon Neighbourhood Sanitary Trunk) be set up and funded 100% from Development Charges. This project is currently under construction.”

**Projects Not Constructed through “Grandfathered” Provisions to date:**

1. **Miles Road** - 265m south of Rymal to 314m south: Sanitary $35,000 and Storm $64,000.

   This project will no longer be “grandfathered”. Instead, it will be included as a condition of subdivision approval at such time as lands on the west side of Miles Road develop and extend the services from the east. The cost recovery for this work will be a best effort by the City on behalf of the developer. The residents outside the plan of subdivision and adjacent to the municipal services will pay upon connection to the municipal service.

2. **Nebo Road** - Sanitary $400,000.

   This project will no longer be “grandfathered” as the owner on the west side of Nebo Road has constructed the “sanitary sewer” through a Special Service Agreement with the City.

Items with regard to sidewalks in the previous Council Report approved on May 15, 2002 remain unchanged.

**ALTERNATIVES FOR CONSIDERATION:**

In reviewing the update for the City’s Funding Methodology of Municipal Service Extensions, the options are:

**Retain the Current Policy**

This would require that the City use an alternative mechanism to recover “Developer Initiated” municipal services installed by the developer outside of the development plan.

The City would not collect the proposed flat fee for municipal mainline service extensions that are funded by “Development Charges” or other funding mechanisms and the current inequities in the method of charging adjacent existing development for municipal services would be retained.
There is a potential revenue loss of $100,000 to $200,000 should the City not include a provision to charge a fee for future plant infrastructure recovery costs for infrastructure capacity which is diminished by the connection of existing development to the water/wastewater service.

**FINANCIAL/STAFFING/LEGAL IMPLICATIONS:**

Financial Implications

The City is expected to recover an equitable share of the resident contribution to the mainline municipal service where services are funded and constructed by other parties. The amount of the flat fee monies to be collected is not exactly known but could range between $100,000 to $200,000 depending on the number of adjacent owners on existing roadways still on private water and septic systems.

Staffing Implications

None

Legal Implications

This report updates the authority under the new Municipal Act,2001 by which the City can charge these costs and impose fees. It is appropriate to approve the Funding Methodology for Municipal Infrastructure Extension Policy attached as Appendix “A” to this report so that all of the policies and procedures are contained in one stand-alone document and so that the proposed changes set out in this report are also reflected in the document. Cost recovery by-laws will continue to be passed and enacted in order to recover the costs identified in the Funding Methodology for Municipal Infrastructure Extensions Policy from existing residences and businesses. In addition, the flat fees will be reflected in the appropriate City fees and charges by-law.

**POLICIES AFFECTING PROPOSAL:**

This report updates the current Policy approved by Council on May 15, 2002 and as amended on July 10, 2002.

This report removes the two remaining grandfathered projects from the list of projects approved by City Council on May 15, 2002.

This report supports the Public Works Strategic Plan visions of; Communities - Services our Communities connect with and trust; Finances - Sound financial management for the long haul; and Processes - Smart processes to match our needs; by providing critical municipal services and recovering a fair cost through a simplified process.

**RELEVANT CONSULTATION:**

Corporate Services - Budgets and Finance - Capital Budgets and Development
Public Works - Water and Waste Water / Capital Planning and Implementation
Planning and Economic Development - Development Engineering
City Managers Office - Legal Services - Commercial/Development/Policy Group
Hamilton Halton Home Builders Association
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
Public services and programs are delivered in an equitable manner, coordinated, efficient, effective and easily accessible to all citizens.

Environmental Well-Being is enhanced. ☑ Yes ☐ No
Human health and safety are protected.

Economic Well-Being is enhanced. ☑ Yes ☐ No
Hamilton's high-quality environmental amenities are maintained and enhanced.

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

N/A
Under sections 9 and 10 of the Municipal Act; 2001, as amended, the City of Hamilton is empowered to impose fees or charges for services or activities provided or done by or on behalf of the City of Hamilton. These fees and charges include the capital costs related to services or activities and may also include the imposition of such fees and charges on persons not receiving an immediate benefit from the services or activities.

1. **Owner Initiated Projects - Petition**

   Property owners have the opportunity to request the extension of municipal waterworks, sanitary sewers and storm sewers by way of petition. The sufficiency threshold shall be two thirds of affected property owners, representing at least 50% of the total assessed value of the lots liable to pay in accordance with this Policy. The petition and estimated cost is prepared by City staff and sent to the person requesting the petition ("Petitioner").

   A petition that meets the sufficiency test does not by itself guarantee that a project will be completed. The project is subject to all necessary approvals, including but not limited to City Council ("Council") approval and the enacting of a cost recovery by-law.

2. **City Initiated Projects**

   City-initiated water, sanitary sewer and storm sewer extension projects would split into 2 categories:

   a. City-initiated projects whereby abutting landowners would be required to pay only as they connect. These City-initiated projects will be limited only to critical water main looping projects or projects which ensure security of supply, to be approved by Council.

   b. City-initiated projects whereby all abutting landowners would have to pay their assessed costs upon completion of construction. This would include all projects not required in “a.” above such as storm sewers to mitigate flooding, sanitary sewers to mitigate health concerns and works solely coordinated with road resurfacing. These water and sanitary and storm sewer capital projects initiated by the City for health, environmental and asset management reasons would be undertaken under Sections 9 and 10 of the Municipal Act; 2001, as amended, with impacted area ratepayers subject to special assessment charges. Adjacent landowners wishing to contest such an initiative, would have to submit a petition signed by a minimum of 50% of the impacted ratepayers representing at least 50% of the assessment in order to have the project halted.

3. **Project Costs – Owner Options**

   Once the sufficiency test is met for an owner petition and the work is approved by Council, City staff will undertake detailed design and
estimation of related costs. If the costs are lower or higher than 20% of the original estimate, owners will be notified of the revised costs. Significantly higher costs may change the opinion of those wishing to proceed with a project.

With respect to a City-initiated project, notification of changes to the estimated cost serves as useful information to owners in their determination of whether they wish to connect to the service (2a), or object to the installation (2b).

4. Public Consultation Process

In the case of a project initiated by owner petition or City-initiated, where owners are assessed the cost of the project upon its completion, an Information Meeting will be held to discuss the financial and technical implications of the project. These meetings provide an efficient forum in which to communicate with owners and ensure that consistent information is relayed. These meetings will give staff time to explain the project and answer the same questions posed by various owners and give the property owners a greater understanding of the project and the process.

Following public consultation, a 30 calendar day period will be invoked during which time affected property owners can withdraw their petition. In the case of a City initiative (2b), abutting landowners wishing to contest such an initiative, would have to submit a petition signed by a minimum of 50% of the impacted ratepayers representing at least 50% of the assessment in order to have the extension project halted. At the end of this period, the project will progress to the next stage, if the original sufficiency test is met.

5. Authorization to Proceed with the Project

Upon completion of the detailed design, notice to owners and the 30 calendar day review period (if necessary), staff will prepare a report to Council requesting authorization and approval of the project and the draft by-law. The by-law sets out the methodology for assessing charges for a specific project.

6. Assessment of Costs

For owner-initiated projects and City-initiated projects under (2b), the cost recovery will be initiated immediately following the completion of the construction of the project in accordance with the cost recovery by-law. The cost recovery for City-initiated projects (2a) commences as owners connect to the service.

7. Appeal Process

There is no appeal process contained in the Municipal Act, 2001, as amended, nor in this Policy.
8. Costs to be Recovered from Abutting or Benefiting Property Owners

In accordance with Sections 9 and 10 of the Municipal Act, 2001, as amended, the City will recover the following capital costs from properties benefiting from a water and/or sanitary and storm sewer servicing project; including but not limited to:

(a) All costs related to the design and construction of the municipal mainline service extension. This includes Municipal Class EA studies, soil testing, borehole testing, tree preservation and replacement plans, etc.

(b) Laterals and sewer laterals – public portion from the municipal mainline service extensions to the property line

(c) Costs associated with fire hydrants and the increased sizing of water mains to conform with municipal fire flow requirement;

(d) Costs for all intersection work incurred in the course of constructing the extended water and wastewater services; and

(e) Property acquisition costs.

In certain circumstances a project may have extraordinary costs associated with it (i.e. local topography, extensive rights of way, health concerns). On a project specific basis, the City may opt to incur some or all of the extraordinary costs, thereby providing relief to the impacted ratepayers.

In circumstances where the ‘oversizing” costs of municipal mainline service extensions is required to accommodate future growth, this extra cost will be paid by development charges. In this way local ratepayers are not charged for infrastructure sizing that is beyond that needed to service their local area.

9. Hardship Cases

In recognition of legitimate hardship cases, the City may defer all or part of the charges until such time as the property is either sold or a change in ownership by other means occurs. The charges, if deferred, would be registered on title and would become a lien against the property. It would be incumbent upon individual homeowners to demonstrate to Council’s satisfaction, the basis of their request (i.e. financial need).

10. Projects funded from Development Charges

In cases where Development Charges have fully funded the water main, sanitary sewer or storm sewer infrastructure, the existing adjacent owners to this service will be required to pay the applicable flat fee upon connection to the municipal service in addition to the normal connection permit charge at the time of connection. The flat fees are shown as Schedule 1 to this Policy. These flat fees would be reflected in a cost recovery by-law and the monies collected would be placed in the appropriate City Development Charges account.
In cases where Development Charges have partially funded the water, sanitary or storm sewer mainline service construction, the adjacent owner will pay their apportioned share of the actual outstanding construction costs of the main line service or the flat fee, whichever is the greatest. The determination of the time of payment (upon completion of construction or upon connection) and apportioned share of the cost will be in accordance with this Policy. Again, these flat fees would be reflected in a cost recovery by-law and the monies collected would be placed in the appropriate City account.

11. Cost Recovery for “Developer Initiated” Municipal Service Construction

In cases where “Developer Initiated” municipal services are constructed outside of the development lands, the City can use best efforts to collect the outstanding municipal servicing costs on behalf of the developer. The adjacent property owners would pay their apportioned share upon connection to the municipal service in accordance with section 12 of this Policy (Method of Cost Recovery).

12. Method of Cost Recovery

The costs are apportioned as follows:

(a) That for projects benefiting both residential and non-residential premises, total assessable costs be first apportioned between these two groups on a basis equal to the percentage split of the total actual frontage of the impacted assessable properties;

(b) That project costs assessable to residential premises be apportioned on a per lot basis, with residential lots having multiple services assigned additional costs related to the lateral charge for each additional service connection;

(c) For owner petition projects and approved City-initiated projects (2b), all abutting properties are subject to the special assessment of charges whether or not they elect to connect to City water and/or wastewater services;

(d) The costs associated with the sewer laterals – public portion and water service laterals for each project shall be identified separately for each property and are not considered as part of the mainline municipal service;

(e) That project costs attributable to non-residential premises benefiting from the project will have costs apportioned between them on a basis of lot-specific area. This alternate apportionment formula for non-residential premises and lands will take into account the potentially more significant water demands that larger properties may ultimately place on the water and/or sanitary and storm sewer systems;

(f) For the purposes of this Policy, non-residential properties include nursing homes, schools, parks and businesses. Farms are considered to be residential. Churches are exempt from the cost recovery provisions of this Policy and the funding shortfall will be recovered from another source.
(g) Parks are assessable and chargeable, but acreage-based apportionment charges would be determined using the actual frontage and a depth measurement capped at a maximum of 30 metres;

(h) In the case of exceptional circumstance, where lot configurations vary widely, the City reserves the right to alter the allocation of costs against a particular property in the interests of equity and fairness to the other benefiting properties (e.g. a lot that is clearly significantly larger than others or that is far removed from a grouping of other properties);

(i) Properties that cannot take advantage of the municipal service (re: utility lands or lands that are undevelopable for reasons such as being designated hazard lands) would be exempt from the process and charges set out in this Policy.

(j) New lots that are created through the severance process after the cost recovery bylaw has been passed would not be required to participate in the project recovery process and would be exempt from the process and charges. However, due to the fact that cost recovery is based on a per lot basis, in the issue of fairness, newly created lots would be subject to the total Development Charge in effect at the time of building permit application.

(k) For projects that include blocks of land that have development potential, that the cost apportionment proceed as if the development is in place, (based on existing planning documentation) however that the cost recovery for said block be initiated only as a condition of development or subdivision agreement;
Schedule 1 to Funding Methodology for Municipal Infrastructure Extensions Policy

1. Flat Fee Charges

The fee derived from the benefit of connecting to a municipal infrastructure extension which is funded wholly or partially by Development Charges shall be either the actual cost to each benefiting owner or the flat fee noted below – whichever is the larger amount. The flat fees will be annually adjusted in accordance with the Construction Data Index.

**2007 Single Family Residential Unit:**

- Sanitary Sewer Main line Fee: $6,000.00
- Storm Sewer Main line Fee: $7,000.00 (larger pipe size for storm sewer)
- Water main Main line Fee: $4,200.00

Cost excludes the following items, which are the property owners additional costs: sewer lateral – public portion construction cost within the public right of way, water service lateral construction cost within the public right of way, permit connection fee and all works on private property.

**Uses other than Single Family Residential**

It is recommended that the residential flat fee be applied to all other existing land uses and/or buildings constructed prior to the approval of this Policy by Council.

The majority of existing land uses without municipal services on existing roadways appear to be single family residential. Generally, a more intense use or commercial use would not be permitted without municipal services first being installed and as such these lands would be connected to the system already.

Flat Fee charges based on:

1. The average cost per metre between constructing a local service in “greenfield development” and on an existing roadway.
2. The average frontage of existing residences on private services being approximately 18m.
3. Design, Engineering, GST and Administration Fees included.
4. 2004 Construction Costs - adjusted to 2007