SUBJECT: Municipal Act Project - Sanitary Sewer on Garner Road from Hamilton Drive to approximately 485 metres easterly - Community of Ancaster (PW03165C/FCS03166C) - (Ward 12)  
Deferred Business - Planning and Economic Development Committee  
Item A

RECOMMENDATION:

(a) That the Development Charges contribution to the Garner Road Sanitary Sewer from Hamilton Drive to approximately 485 metres easterly be increased from $395,364 (37% of the cost of the sewer) to $580,000. (approximately 53% of the cost of the sewer); and

(b) That pursuant to the Municipal Act, 2001, a cost recovery mechanism regarding the remaining cost of the installation of a sanitary sewer be implemented in order to:

(i) use best efforts to repay a developer (Paul Silvestri, President), 288178 Ontario Ltd. the construction cost of $579,491.78 including G.S.T. (property owner’s share) for the installation of the sanitary sewer, including private drain connections, on Garner Road from Hamilton Drive to approximately 485 metres easterly. This cost will be recovered in total from benefiting property owners; and
(ii) defer a portion of the best efforts collection in the amount of $101,036.45 from properties on the south side of Garner Road until such time as these lands are included in the Urban Area of the Official Plan and redeveloped; and

(c) That recommendations (b) (i) and (b) (ii) not come into effect until such time as the Millers Pond Subdivision Agreement between the City of Hamilton and Paul Silvestri, President, 288178 Ontario Ltd. is revised to defer best efforts payment in the amount of $101,036.45.

(d) That the charges for the municipal infrastructure extension outlined in recommendations (b) (i) shall be payable if and when the benefiting property owners connect to the sanitary sewer system; and

(e) That the charges for the municipal infrastructure outlined in recommendation (b) (ii) shall be payable if and when the benefiting property owners connect to the sanitary sewer system, the properties are included in the Urban Area of the Official Plan and redeveloped; and

(f) That the Best Effort clause continue beyond the 10 year period on the south side as a result of the inability to derive direct benefit to the sewers along a current urban boundary road.

(g) That the General Manager of Finance and Corporate Services be authorized and directed to prepare the necessary full cost recovery by-laws; and

(h) That the Garner Road section of Deferred Business Item (A) of the Planning Economic Development Committee be identified as completed and removed.

Scott Stewart, C.E.T.        Joseph L. Rinaldo
General Manager            General Manager
Public Works               Finance and Corporate Services

EXECUTIVE SUMMARY:
This report seeks authorization for the preparation of a cost recovery by-law under the Municipal Act for construction costs of the sanitary sewer on Garner Road in the Community of Ancaster. The project limits are outlined in Appendix A and extend on Garner Road from Hamilton Drive to approximately 485 metres easterly.

This sanitary sewer installation was financed by the developer of the Millers Pond subdivision to extend sanitary services to the subdivision. Based on development to date, the City has paid the developer $189,000 of the estimated amount of $395,364 which was the initial proportionate share (37%) of the Development Charges for this project. The approval of recommendation (a) will increase the Development Charges contribution to $580,000 (approximately 53% of the cost of the sewer). Since the initial
report, staff of the Development Engineering Division in the Planning and Economic Development Department and staff of the Finance and Corporate Services Department have reviewed the proportionate funding and have agreed that the total development charges component of the Garner Road sanitary sewer should be increased from 37% to 53% as this sewer also services all the new subdivisions, additional severances and development on Hamilton Drive. The City will collect the remaining cost of the sanitary sewer mainline and private drains from the benefiting owners on a “best efforts” policy basis as they connect to the sanitary sewer. The monies collected will be forwarded to the developer.

This report and the funding by-law will partially satisfy the terms and conditions of the Millers Pond Subdivision Agreement between the City of Hamilton and the developer, 288178 Ontario Ltd.

BACKGROUND:

On June 21, 2004, the Public Works, Infrastructure and Environment Committee considered a report with respect to the City using the appropriate cost recovery mechanism to collect the sanitary sewer costs for the City Initiated sanitary sewer and the sanitary sewer which was paid under the Millers Pond plan of subdivision. The work completed by the developer included:

1. The construction of a sanitary sewer on Garner Road from Hamilton Drive to approximately 485 metres easterly (Best Efforts by the City on behalf of the owner through the Millers Pond Subdivision Agreement). This sanitary sewer is the subject of this report.

2. The construction of a sanitary sewer on Hamilton Drive from Garner Road to approximately 424.5 metres northerly (Best Efforts by the City on behalf of the owner through the Millers Pond Subdivision Agreement).

3. The construction of a sanitary sewer on Hamilton Drive from 424.5 metres north of Garner Road to 274 metres northerly (Bridge over Hwy 403). This was a City-Initiated sanitary sewer constructed by the owner of Millers Pond plan of subdivision on behalf of the City. The City has repaid the owner of Millers Pond plan of subdivision for these works.

Having considered this report and the amount of the sanitary sewer recovery charge on Garner Road (item #1 above), the PWIE Committee passed the following motion:

“On a motion moved by Councillor Ferguson and seconded by Councillor Mitchell, this item be referred to the Planning and Economic Development Committee for review of the City’s Policy of full cost recovery for the installation of sanitary sewers, particularly with respect to the extremely high charges ($74,202.48) being proposed.”

City of Hamilton Council at its meeting on June 30, 2004 approved the above motion.

This matter was considered by the Planning and Economic Development Committee at its meeting on July 6, 2004. The Committee considered the report and passed the following motion:
"The entire report was referred back to staff with direction that the policy and associated costs to benefiting owners be revisited"

City Council at its meeting on July 14, 2004 approved the Planning and Economic Development Committee motion.

The Hamilton Drive section of the “best efforts” on behalf of the developer and the approval of the Municipal Act By-law was approved by Council on May 25, 2005. Since the July 14, 2004 meeting of City Council, Public Works staff and Development Engineering staff in the Planning and Economic Development Department have reviewed a number of suggested alternatives to cost share in the Garner Road sanitary sewer resulting in the revised recommendations. Since the construction of the sanitary sewer on Garner Road was completed, there have been additional residential lots approved on the north side (applications not finalized) and the greenhouse operation on the north side has been removed and redevelopment of that property is also imminent.

**ANALYSIS/RATIONALE:**

The following analysis is based on the increase in the Development Charges contribution to this project from $395,364.00 (37% of the cost of the sewer) to $580,000.00 (approximately 53% of the cost of the sewer). The increase of the growth component from 37% to 53% was necessary due to staff's revised growth capacity calculations. The City will collect the remaining cost of the sanitary sewer mainline and private drains from the benefiting owners on a “best efforts” policy basis as they connect to the sanitary sewer.

**Garner Road – Hamilton Drive to 485m easterly (North and South side)**

1. Total Monies to be collected under Best Efforts:
   - $510,797.78 (main line sewer) + $68,694.00 (private drains)
2. Non-Residential Assessment Portion of Best Efforts (two properties):
   - $105,564.30 (main line sewer) + $8,586.75 (private drains)
3. Residential Assessment Portion of Best Efforts:
   - $405,233.50 (main line sewer) + $60,107.25 (private drains)
4. Number of Residences to be Assessed:
   - 6 residences on the south side
   - 5 residences on the north side (includes 3 proposed residential lots at No. 389 Garner Road based on a Land Severance Application which has been approved but not finalized).
5. Total Best Efforts Cost per residence (based on 11 residences)
   - $36,839.41 + $8,586.75 per private drain (if requested)

**Garner Road - South side from Hamilton Drive to approximately 485m easterly**

The south side of Garner Road included in the Municipal Act By-law is outside the urban area of the Official Plan. Since Garner Road forms the boundary between the urban and rural area of the Official Plan, the owners on the south side of Garner Road are permitted to connect to the sanitary sewer provided their share of the costs are paid, that the connection to the sanitary sewer will be sized to facilitate only the equivalent of
one single family residential connection and that the connection to the service cannot be used as justification for the expansion of the existing uses. The original individual benefiting owner share, as outlined in the original report in 2004, estimated the connection cost to be $65,616.73 plus $8,586.75 for each private drain.

In discussions with Development Engineering staff it was agreed in principle that since these lands are currently outside of the urban area, it would be fair to collect from each residence the equivalent cost to repair and/or replace any failed septic system on the property. This cost is estimated at approximately $20,000 but could range significantly depending on soil condition and type of single family residential development, area for replacement septic system, etc. Therefore each of the 6 residences on the south side of Garner Road would pay $20,000.00 toward the main line sewer “best efforts” and $8,586.75 for the private drain at this time should they connect to the sanitary sewer prior to their lands being included in any future Urban Area expansion and their lands being developed. A total of $101,036.45 or $16,839.41 per existing residence on the south side of Garner Road included in the “best efforts” collection for the main line sewer would be deferred at this time.

It would be reasonable to expect the property owners on the south side of this section of Garner Road to pay their remaining assessed amount for the sanitary sewer at such time as these lands are included in the Urban Boundary of the Official Plan and redeveloped. As some of the growth options under consideration by GRIDS include some of these lands, this option has merit. In order to defer payment of the total sewer costs, the “best efforts” schedule of the Millers Pond Subdivision Agreement must be revised and $101,036.45 of the “best efforts” collection by the City on behalf of the developer must be deferred until that time. This must also be reflected in the Municipal Act By-law to be passed.

**Garner Road - North side from Hamilton Drive to approximately 460m easterly**

The north side of Garner Road included in the Municipal Act By-law is in the urban area and these lands are permitted to develop in accordance with the Official Plan designation. Since 2004, a severance application was approved (not finalized) and the greenhouse operation has also been removed. In order for development on the north side of Garner Road to proceed, the Municipal Act By-law and the sanitary sewer servicing issues must be resolved.

The total assessed costs under the Municipal Act By-law for the north side of Garner Road is $289,761.35 (excludes private drains). The non-residential share for two properties is calculated at $105,564.30 (excludes private drains). The residential component, consisting of 5 benefiting owners (based on the final approval and creation of the lots under severance application) would be $36,839.41 per lot plus $8,586.75 for each private drain installed.

**Funding Methodology for Municipal Infrastructure Extensions**

The Millers Pond Subdivision Agreement between the City and Paul Silvestri, President, 288178 Ontario Ltd. allows the City to recover costs from adjacent development to repay part of the infrastructure cost. In that this is not a typical infrastructure extension project, only the part of City’s Funding Methodology for Municipal Infrastructure
Extensions policy dealing with cost apportionment is required in order to prepare the cost recovery by-law.

The adjacent owners would be required to pay the costs to the City upon connection to the sanitary sewer. The City would in turn use this cost recovery to repay the “developer” as per the terms of the subdivision agreement.

**ALTERNATIVES FOR CONSIDERATION:**

The recovery of the costs for this sanitary sewer has been discussed with Development Engineering staff and the owner of Millers Pond Plan of Subdivision. The original costs to be recovered from the adjacent owners under “best efforts” ranged from approximately $65,600 to $91,295.00 per owner. This analysis takes into consideration an added Development Charges contribution and a partial deferral of payment at this time for those lands within the “rural area” of the Official Plan.

**FINANCIAL/STAFFING/LEGAL IMPLICATIONS:**

Financial Implications - The approval of this report will allow the City to collect “best efforts” for the owner of Millers Pond plan of subdivision and permit adjacent development to pay for and connect to the sanitary sewer.

Staffing Implications - None

Legal Implications - The Schedules to the Millers Pond plan of subdivision must be revised and a special schedule must be added to the Municipal Act By-law to permit deferral of the costs for lands on the south side of Garner Road.

**POLICIES AFFECTING PROPOSAL:**

N/A

**RELEVANT CONSULTATION:**

Development Engineering, Planning and Economic Development Department
Budget and Finances, Corporate Services
Legal Services Division, City Manager’s Office
Paul Silvestri, President, 288178 Ontario Ltd.
Millers Pond Plan of Subdivision

**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.
The sanitary sewers are now available to adjacent owners. Municipal water and sanitary sewer service is now available and the previous “split servicing” has now been eliminated.
Economic Well-Being is enhanced. ☑ Yes ☐ No
Hamilton's high-quality environmental amenities are maintained and enhanced.
With the passage of the Municipal Act By-law, the City can collect “best efforts” on behalf of the developer. Further, the adjacent owners can connect to the sanitary sewer on Garner Road.

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
City of Hamilton - Ward 12 (Community of Ancaster)
Garner Road West from Hamilton Drive to 485m easterly to the Pumping Station
Municipal Act (MA)

Municipal Sanitary Sewer Installed
As Part of Miller's Pond Plan of Subdivision

APPENDIX A
LOCATION MAP

DATE: March, 2006
Map Not To Scale
### Property Address, Frontage (ft), % (non-res), % (res), Area (acres), San Sewer, Private Drain, Deferred Cost, Total Cost

<table>
<thead>
<tr>
<th>Property Address</th>
<th>Frontage (ft)</th>
<th>% (non-res)</th>
<th>% (res)</th>
<th>Area (acres)</th>
<th>San Sewer</th>
<th>Private Drain</th>
<th>Deferred Cost</th>
<th>Total Cost</th>
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**Total**

- **Frontage (ft):** 2641.95
- **% (non-res):** 20.67%
- **% (res):** 79.33%
- **Area (acres):** 7.44
- **San Sewer:** $409,761.33
- **Private Drain:** $68,694.00
- **Deferred Cost:** $101,036.45
- **Total Cost:** $579,491.78

* did not request a private drain

**Based on the approval of a Land Severance Application creating a total of 3 residential lots (application not finalized)

(1) Cost to be deferred until Lands are included in the Urban Area of Official Plan and redeveloped.