

**2. MUNICIPAL ACT CHARGE FOR THE FARMERS WAY EXTENSION OF THE
CARLSBAD ALTERNATIVE STANDARD WATER SUPPLY**

**FRAIS SELONT LA LOI SUR LES AFFAIRES MUNICIPALES POUR LE
RÉSEAU ALTERNATIF D'ALIMENTATION EN EAU DE LA VOIE FARMERS**

COMMITTEE RECOMMENDATION

**That the Council approve a bylaw to assess property owner charges for the
Farmers Way Local Improvement Project as outlined in this report.**

RECOMMANDATION DU COMITÉ

**Que le Conseil approuve un règlement visant à évaluer les redevances
imposées aux propriétaires pour le projet d'amélioration locale de la voie
Farmers, comme il est exposé dans le présent rapport.**

DOCUMENTATION / DOCUMENTATION

Nancy Schepers, Deputy City Manager, Planning and Infrastructure, report dated
30 January 2014 / Rapport de la Directrice municipale adjoint, Urbanisme et
Infrastructure daté du 30 janvier 2014 (ACS2014-PAI-INF-0001).

**AGRICULTURE AND RURAL
AFFAIRS COMMITTEE
REPORT 38
12 FEBRUARY 2014**

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**COMITÉ DE L'AGRICULTURE ET
DES AFFAIRES RURALES
RAPPORT 38
LE 12 FÉVRIER 2014**

**Report to
Rapport au:**

**Agriculture and Rural Affairs Committee
Comité de l'agriculture et des affaires rurales**

**and Council
et au Conseil**

**January 30, 2014
30 janvier 2014**

**Submitted by
Soumis par:**

**Nancy Schepers, Deputy City Manager/Directrice municipale adjointe, Planning
and Infrastructure/Urbanisme et Infrastructure**

Contact Person

Personne ressource:

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Ward: CUMBERLAND (19)

File Number: ACS2014-PAI-INF-0001

**SUBJECT: MUNICIPAL ACT CHARGE FOR THE FARMERS WAY EXTENSION OF
THE CARLSBAD ALTERNATIVE STANDARD WATER SUPPLY**

**OBJET: FRAIS SELONT LA LOI SUR LES AFFAIRES MUNICIPALES POUR LE
RÉSEAU ALTERNATIF D'ALIMENTATION EN EAU DE LA VOIE FARMERS**

REPORT RECOMMENDATIONS

That the Agriculture and Rural Affairs Committee recommend Council approve a bylaw to assess property owner charges for the Farmers Way Local Improvement Project as outlined in this report.

RECOMMANDATIONS DU RAPPORT

Que le Comité de l'agriculture et des affaires rurales recommande au Conseil d'approuver un règlement visant à évaluer les redevances imposées aux propriétaires pour le projet d'amélioration locale de la voie Farmers, comme il est exposé dans le présent rapport.

BACKGROUND

The Carlsbad Springs Hamlet has experienced a history of well-water quality and quantity problems. In 1988, MOE - Ottawa undertook a study, "Report on a Well Survey of the Greater Carlsbad Springs Area in the City of Gloucester in the RMOC". It concluded that 58% of the wells were unsatisfactory, 15% were doubtful and 30% had experienced dry periods. The report recommended an alternate water source. In response, the Regional Municipality of Ottawa Carleton (RMOC) undertook a feasibility study. It concluded that a steady flow system would be utilized to service Carlsbad Springs.

The Carlsbad Springs alternative standards water supply system is a Trickle Feed system designed to solve an existing problem with the groundwater supply in the area. The system provides sufficient water for indoor use only. No allowances are made for outdoor water use (i.e. sprinklers, car washing, etc.) and fire protection is not provided from the system. The system is comprised of small diameter watermains, ranging from 75mm to 200mm in diameter and customers serviced by the Trickle Feed System have a cistern (typically 600L-750L in volume), a jet pump, backflow prevention system and water meter installed inside their homes.

A number of amendments to the Regional Official Plan (1988) dealing with the Carlsbad Springs water supply service area were considered and approved. During the course of the original servicing project, property owners along the section of Farmers Way subject

to this report elected to not connect to the system. Construction of the Carlsbad Springs Water Supply System was completed in 1997.

In 2000, there were two requests to extend the servicing (Document 1). One was to for the Carlsbad Springs Water Supply to be extended to service 15 properties along Farmers Way from the point where Farmers Way intersects with Thunder Road (formerly Ninth Line Road) to approximately 830 metres north. The other was for the Carlsbad Springs Water Supply to be extended a short distance (90 metres) along Top Generation Court (formerly Sixth Line road) to allow for the connection of a small public recreational building (Top Generation Club) at 4473 Top Generation Court.

The Top Generation Court extension was to be paid for entirely by the former City of Gloucester who was providing bottled water to the public recreational building at the time. The Farmers Way extension was a petitioned request pursuant to the provisions of the Local Improvement Act in place in 2000 with the cost of the proposed work to be specially assessed to all the lots abutting the work and the benefiting properties in the area subject to the petition.

In June of 2000, the former RMOC considered a Regional Official Plan Amendment (ROPA 13) to deal with the requested extensions. The end of the petitioned local improvement section (830 metres north of Thunder Road) is less than half way to the Piperville Road (formerly Eighth Line Road) intersection to the north. Given the nature of the trickle feed system, the additional 1,000 metre extension to Piperville Road was considered to provide additional integrity and security of supply. As part of Planning and Environment Committee discussion related to ROPA 13, staff was directed to prepare a report on financing scenarios for funding to complete the extension from the limit of the petitioned section northerly to Piperville Road (formerly Eighth Line Road).

As part of the report prepared to respond to the committee direction, staff reviewed the costs of the northerly extension to Piperville Road and the nature of the properties involved. Staff's recommendation was that a charge of \$9,000 per lot for each of the four properties involved was a reasonable balance for the cost recovery from these lots.

That staff report was considered by Planning and Environment Committee July 11 of 2000 and they recommended to Council that:

1. an extension of Carlsbad Alternative Standards Water Supply System be constructed along Farmers Way from Ninth Line Road (now Thunder Road) to Eighth Line Road (now Piperville Road);
2. with respect to the lot having frontage of 340 metres in the local improvement area, a grant be provided to the owner to the extent that the local improvement charges for this lot is in excess of \$9,000;
3. the grant be conditional upon the portion of the local improvement charge equivalent to the grant being paid by that owner as a lump sum;
4. capital authority of \$300,000 be established for the project with a net Regional requirement not to exceed \$160,000;
5. debenture authority in the amount of \$300,000 be established;
6. with respect to the extension of the water service from the end of the local improvement area to Eighth Line Road (now Piperville Road), a charge be imposed under the Municipal Act, section 221 of \$9,000 per lot fronting on Farmers Way;
7. the owners in the local improvement area and those in the area subject to the Municipal Act, section 221 charge have the option of paying the amount owing as a lump sum or over a period of 20 years;
8. the owners in the local improvement area and the owners subject to the Municipal Act, section 221 charge who amortize their charges be eligible to commute such charges based upon the difference between the rate of interest payable on the debentures issued for the project and the rate of interest being earned by the Region/new City of Ottawa at the time of the application for commutation; and,
9. staff be directed to make all efforts to recover the Regional contribution for the extension of the water main north of the local improvement area from the pending infrastructure financing program.

Council approved Committee recommendations July 12, 2000. The process for imposing the charge under the Local Improvement Act was initiated through the Court of Revision on December 16, 2013 and 11 of the 15 properties that benefited from this

local improvement project were processed under that Act. This report to the Agricultural and Rural Affairs Committee focuses on imposing the charge on the remaining 4 properties under the Municipal Act, section 221, as they were not part of the original local improvement project.

DISCUSSION

The following considerations were approved in 2000:

- works include the installation of the watermain within the right-of-way for Farmers Way as well as service laterals from the watermain to the property lines of the properties to be serviced.
- such works also includes the installation of all necessary appurtenances within the right-of-way but does not include any pipes or appurtenances to be placed or installed within private property
- that recovery of cost for the portion of the watermain extension from 830 metres north of Thunder Road (Ninth Line) to Pipperville Road (Eighth Line) be undertaken under section 221 of the Municipal Act through a charge of \$9,000 per lot payable lump sum or over a period of 20 years
- that owners subject to the Municipal Act charge who amortise their charges be eligible to commute such charges based upon the difference between the rate of interest payable on the debentures issued for the project and the rate of interest being earned by the Region/new City of Ottawa at the time of the application for commutation

Bylaw 54 of 2000 (RMOC)

Planning and Environment Committee Report 61, Item 1

Region of Ottawa Carleton Report Reference W.1.2.152

Carlsbad Springs Water Supply – Farmers Way Financing Options

Costs of the works: \$115,000

Watermain and Appurtenances	No of Lots	Charge per Lot
\$115,000	4	\$9,000

Although construction was undertaken over 2000 – 2001, through the past twelve years, staff has focused on moving forward the construction of local improvements and did not pay corresponding attention to completing the process for local improvements that had been constructed, including advising owners of the amount due and the collection of such amounts. The City is now in a position to set the charge for properties affected by the project and initiate the collections.

The charge only takes effect after Council approves a by-law to impose it. As such, prior to 2010, pending charges that had yet to be determined may not have appeared on a Tax Certificate. The duty of a vendor to disclose a local improvement to a purchaser is governed by their specific agreement of purchase and sale. Because this could vary, a situation could occur where there has been a change in property ownership and where the new owner had requested and obtained a Tax Certificate from the City and no outstanding Local Improvement charges would have been identified.

With the passage of time and the potential change in property ownership since the construction of the local improvement works and the situation where a tax certificate was issued by the City without a reference to the pending charges,

On April 10, 2013, Council approved that the charges be dispensed if all of the following three conditions are met:

1. They became the owners of the property subsequent to the construction of the Local Improvement works;
2. At the time of the purchase, a Tax Certificate was requested and the Tax Certificate did not indicate the pending imposition of costs for the Local Improvement works; and
3. The owners provide an affidavit or statutory declaration stating that they were not aware of the pending Local Improvement charges at the time they acquired the property.

It is also the practice of many, if not all, real estate lawyers in home purchases to obtain title insurance and that some real estate lawyers do not obtain tax certificates in such cases. The City understands that in those circumstances, claims by property owners in respect to the local improvement charge not having been known at the time of purchase have been denied by the insurers. City Council on December 11th, 2013 therefore approved the following revised dispensation program:

That the charges be dispensed for properties with pending local improvement charges (and similar *Municipal Act* charges in respect of Farmers Way) when all of the following 3 conditions are met:

- a) They became the owners of the property subsequent to the Council approval of the local improvement work and prior to the mailing of the Notice of the Court/Committee of Revision meeting in respect of the local improvement work;
- b) At the time of the purchase:
 - i. a tax certificate was requested and the tax certificate did not indicate the pending imposition of costs for the local improvement works, or
 - ii. a tax certificate was not requested and title insurance was obtained; and
- c) The owners provide an affidavit or statutory declaration stating that they were not aware of the pending local improvement charges at the time they acquired the property.

Council also approved a motion on 12 June 2013 providing interest relief for those Local Improvements approved by Council prior to 30 November 2006. For these Local Improvement projects, no interest shall accrue prior to 1 January 2019:

- On the conditions that the equal, annual payments are made commencing no later than 30 June 2014, and
- That such annual payments are not in arrears; and

- The interest waiver shall end in respect of any property sold subsequent to the notice of the first applicable Court of Revision meeting for such property.

Measures have already been put in place to ensure that this situation of extended lapse between the construction of local improvement works and the setting of the charge does not reoccur in the future. This includes setting of the charge within a year of the end of the warranty period following completion of construction and a note identifying a pending local improvement charge will be identified on tax certificates. This is a practice that has been in place since 2010.

The collect-back amount respects the apportionment approved by Council, legislated provisions, special consideration and current property parcel and assessment roll information. It is noted that the costs assessed to the property owners do not include any interest charges since construction.

Once Council approves the charge as outlined, a bylaw will be enacted imposing it and property owners will then be provided with a notice of this being the case and a summary of payment options. Property owners can pay lump sum or elect to have the charge recovered annually through their tax bill (with carrying costs which would only apply after the imposition of the charge for those not paying as a lump sum).

The City's Finance Department has extended options to better accommodate various owner preferences:

- Payable lump sum (30 days after letter notice) or equal annual amounts for up to the term identified for the project (10 -20 years typically) with interest
- For those not choosing the lump sum option:
 - Annual payments commence with the tax bill in June 2014 with an annual interest rate defined at the time of establishing the local improvement special assessment roll
 - For those choosing an annual payment plan, payment options can be spread between 1 year and the term identified for the project (10 -20 years typically). Each annual payment will be included on the final tax bill in June.

For those on pre-authorized tax payment plan, the annual amount will be spread over 10 monthly payments.

RURAL IMPLICATIONS

Imposing this charge under the Municipal Act is being completed in a consistent manner as which those owners assessed through the Local Improvement in Farmers Way and in a consistent manner as with other local improvement projects across the City in both urban and rural environments.

CONSULTATION

There was discussion and information provided at the time of approvals. There was also information provided at the time of construction of the project.

A separate property owner specific notice of this committee meeting (Document 5) was also mailed, in advance, to the current owner(s) of each property as listed in the most recent assessment roll information. With this notice, each owner received a letter specific to their property detailing their charge amount. The letter also identified a staff contact should they have any questions.

COMMENTS BY THE WARD COUNCILLOR(S)

The Ward Councillor is aware of this report.

LEGAL IMPLICATIONS

This matter comes under the Municipal Act (1990), Section 221.

RISK MANAGEMENT IMPLICATIONS

There are risk implications. These risks have been identified and explained in the report and are being managed by the appropriate staff.

FINANCIAL IMPLICATIONS

Revenues will be credited to 900617 – LI – Carlsbad Springs Farmers Way Extension. In the event that the conditions are met and charges dispensed, write offs will be expensed to the same account. Any surplus/deficit resulting from the revenues/write offs will be dealt with upon project close, through the capital close process.

ACCESSIBILITY IMPACTS

There are no accessibility impacts.

TECHNOLOGY IMPLICATIONS

There are no technology implications.

TERM OF COUNCIL PRIORITIES

This report is consistent with the 2011-2014 Term of Council priority for Financial Responsibility.

SUPPORTING DOCUMENTATION

Document 1 - Overall Extensions – Carlsbad Springs Alternate Supply Watermain

Document 2 - Location Sketch – Farmers Way Local Improvement

Document 3 - Planning and Environment Committee - ROPA 13 June 27, 2000 – refer to

http://ottawa.ca/calendar/ottawa/archives/rmoc/Planning_And_Environment/27Jun00/report3.pdf

/ Planning and Environment Committee Minutes – Carlsbad Springs Water Supply Farmers Way Financing Options, July 11, 2000 – refer to

http://app06.ottawa.ca/calendar/ottawa/archives/rmoc/Planning_And_Environment/11Jul00/pem11jul.pdf

Document 4 - Bylaw 54 of 2000 (RMOC)

Document 5 - Notice of the Charge to Owners

DISPOSITION

Once Council approves the bylaw imposing the charge, Finance staff will prepare and mail a letter to each property owner to provide more details, such as when, where and how to submit payment of their special assessment. Finance staff will manage receipt of any annual payments over the course of the twenty (20) year recovery period and will bring forward in consultation with Legal staff any issues that may occur.