TO: Mayor and Members of City Council

FROM: Bert Meunier, Chief Administrative Officer

PREPARED BY: Nancy Taylor, Vice President & Secretary, Utilities Kingston
Alan McLeod, Senior Legal Counsel, Legal Services Division

DATE OF MEETING: 2004-06-15

SUBJECT: Union Gas Franchise Agreement

RECOMMENDATION TO COUNCIL:

It is recommended that City Council not pass any Authorizing By-Law that may be issued as a Procedural Order of the Ontario Energy Board;

And further;

That the Corporation of the City of Kingston not enter into the Model Franchise Agreement.

ORIGIN/PURPOSE:

At the Council meeting of October 28, 2003 the following was resolved:

That Council agree to a six month extension of the current franchise with Union Gas for the area formerly known as Kingston Township on a without prejudice basis, commencing January 17, 2004, and authorize staff to proceed with the required applications and agreements required to do so;

And that staff be requested to prepare a report in a timely fashion for the next Council, providing an analysis of the alternatives available to the Municipality concerning any future franchise renewal and/or gas servicing in that area of the municipality.

The granted extension expires on July 17, 2004. Staff has now completed our review of the options available to the municipality with respect to this issue.
OPTIONS/DISCUSSION:

Background – Township of Pittsburgh

In 1997, the Franchise Agreement with the former Township of Pittsburgh expired. In recognition of the imminent dissolution of the Township and creation of the new City of Kingston, the Transition Board requested and Union Gas (then Centra Gas) agreed to a one (1) year extension of the agreement to permit the new City an opportunity to evaluate its options. At the end of the extension in 1998, Union Gas approached the City of Kingston for a fifteen year renewal of its natural gas Franchise Agreement. The new City completed a business case analysis and determined that it would be in their best interest to operate the natural gas utility in the former Township directly. This would support the integration efforts of the City’s newly formed utility department, leading to improvements in customer service, savings for its citizens, local control over a very essential public utility and financial return to the municipality. As the former PUC had operated a gas utility in the central section of the old City dating from 1904, the expertise for such an operation existed within the new city. This item appeared before Council in October of 1998.

In late 1998, Council passed the following motion;

WHEREAS the franchise to distribute natural gas to customers in the Pittsburgh Township portion of the old city has expired; and

WHEREAS Council has a duty to ensure that the residents of the City have access to the lowest cost, safe and reliable supply of gas; and

WHEREAS Council views the provision of low cost natural gas to be necessary to promote economic development; and

WHEREAS Council believes that competition, even among regulated utilities is good for consumers and the City; and

WHEREAS the Council is satisfied that the rates for gas in the former Township of Pittsburgh under the current system are higher than those charged by Utilities Kingston; and

WHEREAS Council is satisfied that the comparison of rates is fair and on a level field with no subsidy by taxpayers in either instance and with a reasonable rate of return to the investor;

NOW THEREFORE BE IT RESOLVED that; the Council of the City of Kingston agrees to take all necessary steps to ensure that consumers of natural gas within the Pittsburgh area receive the lowest cost, safe and reliable supply of natural gas, up to and including the acquisition of the existing assets related to the supply of natural gas in the former Township of Pittsburgh.

From October 1998 until June of 2003 this issue came before Council on several occasions. In order to inform the current Council the following is a brief summary of these steps and timelines:
Late 1997

Centra Gas requests Transition Board to renew the Franchise to provide gas distribution services in the former Township of Pittsburgh

*Action - Agreed to a 1 year term only*

August, 1998

Union Gas requests Council to grant a 15 year Franchise Agreement

October 6, 1998

First Report to Council ‘In Camera’

November 30, 1998

Motion as outlined on page 1-2

Business Case was concluded

February, 1999

Initial Hearing in front of Ontario Energy Board regarding the Board’s Jurisdiction

May, 1999

Initiate Negotiations with Union Gas

June 15, 1999

City Council Passes By-Law to expropriate the assets of Union Gas

August 6, 1999

Province Appeals Section 62 of the Public Utilities Act – removing the City’s ability to expropriate the assets

December, 1999

Negotiations are terminated

Hearing at the Ontario Energy Board
June 23, 2000

Decision of the Ontario Energy Board is handed down - stated that the Ontario Energy Board did not have jurisdiction to impose the order requested.

June 29, 2001

Appeal to Divisional Court

September 4, 2001

Appeal Dismissed by Divisional Court

October 1, 2002

Appeal to Appeals Court

October, 2002

Appeal Dismissed

December 9, 2002

Applied to Supreme Court of Canada for Leave to Appeal

March, 2003

Leave to Appeal Dismissed

April, 2003

Ontario Energy Board submits standard Franchise Agreement for a term of 20 years to Council for signing.

It can be seen from the summary above that this was an extensive and exhaustive process. It can be segmented into three main activities. The first would be the negotiation phase in which over a period of more than half a year, we attempted to reach an amicable settlement with Union Gas. The next was the hearing before the Ontario Energy Board, where in their decision they indicated that they did not have the jurisdiction to impose the order requested by Kingston. The third stage was been the legal appeal of the decision of the Ontario Energy Board. It has been our belief that the Board has the power to impose any order that is in the public’s interest, including the order that was requested by Kingston. In fact, any other interpretation creates a perpetual Franchise Agreement in every Ontario municipality with an existing agreement and provides no recourse for this monopoly.
The other substantial event that occurred during this process was the elimination of Section 62 of the *Public Utilities Act* by the Provincial Government as a result of intense pressure from Union Gas, which significantly limited our options in achieving our goal. This action by the province has contributed to the creation of a perpetual franchise.

**Current Status – Township of Kingston**

As we approach the deadline to renew the Township of Kingston franchise agreement, staff has reviewed the options for the municipality that now exist. Our review has concluded that circumstances have not changed significantly since the imposition of the Township of Pittsburgh Franchise Agreement in June of last year.

The ruling in the Pittsburgh case by the Ontario Energy Board, where they ruled that the Board did not have the jurisdiction to grant the City of Kingston’s request, and thus were required to renew or extend the term of the right of Union Gas to operate works for the distribution of gas in the former Pittsburgh Township, has in effect created a perpetual franchise. It is likely that this ruling will have the same effect with respect to the Township of Kingston franchise.

Staff has concluded that there appears to be no means for a municipality to terminate or transfer such agreements going forward resulting in an ongoing monopoly for the incumbent gas distribution company in every municipality in the province.

Any further legal action is likely to be costly and unlikely to have the desired effect. Therefore, staff are not recommending legal action. At the conclusion of the Pittsburgh case, the Ontario Energy Board issued a Procedural order as follows:

**“THE BOARD THEREFORE ORDERS THAT:**

1. The terms and conditions upon which, and the period for which, the Corporation of the City of Kingston is by by-law, to grant Union Gas Limited the right to construct and operate works for the distribution of gas, and the right to extend and add to the work, in the geographic area of the City of Kingston that was formerly the Township of Pittsburgh, in the franchise agreement attached as Appendix A, are approved.

2. The assent of the municipal electors of the City of Kingston to the by-law is not required”

Staff recommend that if the Board issues a procedural order with respect to the Township of Kingston franchise that the municipality respond as it did for the Township of Pittsburgh by advising the Board that it will not sign the agreement and does not accept the Model Franchise agreement.

**EXISTING POLICY/BY-LAW:**

Township of Pittsburgh Franchise Agreement
LINK TO STRATEGIC PLAN:

N/A

FINANCIAL CONSIDERATIONS:

N/A

CONTACTS:

Jim Keech, President & CEO, Utilities Kingston  546-1181 ext. 2217
Nancy Taylor, Vice President & Secretary, Utilities Kingston  546-1181 ext. 2460

DEPARTMENTS/OTHERS CONSULTED AND AFFECTED:

Legal Services Division
Utilities Kingston

NOTICE PROVISIONS:

N/A

APPENDICES:

None

Bert Meunier
Chief Administrative Officer
Subject: Kingston West Elevated Water Storage Project - Funding Sources

Date of Meeting: June 15, 2004

From: J.A. Keech, President & C.E.O., Utilities Kingston

Prepared By: J. Miller, Manager Utilities Technical Services

Recommendation

That Council confirms a funding ratio of 80/20 – impost/rates for the elevated water tower project.

Purpose

During the 2004 Capital Budget discussion, questions were raised regarding the funding split for the Elevated Water Storage Facility in the west end of the City. The principle question was over the components of the project costs allocated to rates or the impost fund. During the discussions Utilities Kingston committed to bring the matter back to Council prior to commencement of construction of the project.

Discussion

The 2004 Capital Budget estimated the cost for this project to be in the area of $3,200,000, and budgeted $2,560,000 from impost and $640,000 from rates. This split is in accordance with the 80/20 (impost/rates) split documented in the Information Report to Council presented in August 2003. The rational for this split is as follows.

Our records indicate that during the 1990’s the need for additional water storage was identified and was incorporated into the Impost rate as it applied to that area of the City (Kingston West). Consequently new growth has been contributing to funding the storage facility. Although construction of the facility was identified for 1997, operational adjustments to the system enabled actual construction to be delayed. The completion of the Environmental Assessment in 2002 confirmed that construction of the storage facility was now needed.

The elevated water storage facility will primarily serve the area bounded by Princess Street, Sydenham Road, the 401 and Bayridge Drive. Although this is the primary area, the storage facility will enable other improved system performance measures to be implemented that affect a much larger area of the City and which will serve to benefit
existing residents. In addition some of the development which occurred in this area was able to be serviced without the need for additional water storage. However it is noted that this is one of the primary growth areas of the City and the storage facility will enable continued growth/development of this area. Consequently it is reasonable to apportion costs of the facility to both rates and impost.

Impost charges establish a mechanism for funding system capacity for new growth. The charge is utilized to fund future capacity in the respective systems, water and wastewater. These funds are not utilized for ongoing operations or maintenance, or replacement capital of existing facilities. Within the affected area a certain amount of growth occurred without triggering the need for system capacity expansion.

Based on a review of the total development potential and the benefit to existing residents that could be served without the storage facility an allocation of 80% to impost (growth related) and 20% to rates (existing residents) was determined to be a reasonable apportionment. Consequently this apportionment was utilized in establishing the funding sources for this project in the 2004 Capital Budget.

Departments Consulted

Finance Division – G. Hunt, Manager Finance Division
REPORT TO COUNCIL

TO: Bert Meunier, Chief Administrative Officer
FROM: Mark Segsworth, Commissioner of Operations
PREPARED BY: Robert Steele, Manager of Fleet Division
DATE OF MEETING: 2004-06-15
SUBJECT: One (1) 2004 Model Year, Loader / Backhoe Tender No. OS-FL-2004-05

RECOMMENDATION TO COUNCIL:
That Council approves the purchase of one (1) 2004 Model Year, Loader / Backhoe from Ontrac Equipment Services Inc. for the tender amount of $89,978.00 plus applicable taxes.

ORIGIN/PURPOSE:
This purchase is for the replacement of an existing Loader / Backhoe within the Roads Division that has fulfilled its lifecycle term of 15 years.

OPTIONS/DISCUSSION:
Public tenders were issued and closed, with the results as follows:

<table>
<thead>
<tr>
<th>Vendor</th>
<th>Bid submission</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ontrac Equipment Services Inc.</td>
<td>$89,978.00</td>
<td>Meets Requirements</td>
</tr>
<tr>
<td>Hartington Equipment</td>
<td>$98,500.00</td>
<td>Meets Requirements</td>
</tr>
</tbody>
</table>

Due to the specialty nature of this equipment only two tenders were received. The lowest bid is acceptable.

EXISTING POLICY/BY-LAW:
Purchasing By-law 2000-134 and delegated authority of council subject to approved criteria.

LINK TO STRATEGIC PLAN:
Not applicable.

FINANCIAL CONSIDERATIONS:
2004 Capital Budget
CONTACTS:
Damon Wells, Manager, Roads Division 542-1436 x 103
Robert Steele, Manager, Fleet Division 546-4291 x 2216
Derek Hart, Budgeting Analyst, Finance Division 546-4291 x 2370

DEPARTMENTS/OTHERS CONSULTED AND AFFECTED:
Roads Division
Fleet Division
Finance Division

NOTICE PROVISIONS:
Not applicable

APPENDICES:
None

Mark Segsworth, P.Eng.
Commissioner of Operations

Bert Meunier
Chief Administrative Officer
APPLICATION FOR ASSIGNMENT OF EXISTING LEASE OF CITY SIDEWALK FOR THE PURPOSE OF A PATIO
358 PRINCESS STREET, SOL LATINO

RECOMMENDATION TO COUNCIL:

That Council on behalf of the City of Kingston, consent to assignment of the Lease Agreement from The Symposium Cafe to 1576287 Ontario Incorporated, the owners of Sol Latino for the lease of City property for the purpose of operating a serving Sidewalk Patio; and

That such Lease Agreement is in a form acceptable to the City Solicitor.

ORIGIN/PURPOSE:

An application has been received for the assignment of the former patio lease for the Symposium Cafe to 1576287 Ontario Incorporated operating as Sol Latino, for the purpose of operating a sidewalk patio, serving food and beverages, under the regulations as established in By-Law No. 87-136, “A By-Law to Authorize the Adoption of Regulations Established for the Purpose of Dealing with Applications for the Extended Use of Sidewalks.”

OPTIONS/DISCUSSION:

The owners of Sol Latino wish to retain a patio for the purpose of serving food and beverages, as an extension of their business located at 358 Princess Street. The application falls in area “C” as outlined in By-Law No. 87-136.

The applicant has supplied the Engineering Division with a formal application and site plan. The proposal for consideration is to re-establish the previously approved patio on the Barrie Street flankage of their restaurant on Princess Street. The applicant wishes to maintain the same dimensions as the former Symposium Cafe patio. The patio area remains 71.3 square metres. As the application is for assignment of an existing lease, no public notification was required.
Engineering has circulated to the relative divisions within the City and outside agencies. Engineering received the following concerns from our Department of Community Services:

- Is there sufficient slope for the wheelchair access ramp?
- Is the Spacing within the patio area sufficient for wheelchair access?

These issues have been addressed and conform to the regulations set out within By-Law No. 87-136 regarding wheelchair access to patios.

EXISTING POLICY/BY LAW:

By-Law No. 87-136, "A By-Law to Authorize the Adoption of Regulations Established for the Purpose of Dealing with Applications for the Extended Use of Sidewalks."

LINK TO STRATEGIC PLAN:

There is no link to the Strategic Plan.

FINANCIAL CONSIDERATIONS:

The applicant has met the requirements as outlined in By-Law No. 87-136. The applicant agrees to enter into a lease to be renewable annually based on past performance. The applicant is aware that there is an annual lease fee to be paid to the City, the amount to be calculated based on the current cost per square metre as per the By-Law, which rate shall be adjusted annually in accordance with the C.P.I. The lease rate for Area “C” as described in By-Law No. 87-136 for 2004 has been established as Forty Dollars and Twenty Eight Cents ($40.28) per square meter plus G.S.T. The pro rated amount for the 2004 patio season, will be Nine Hundred & Fifty Seven Dollars ($957.32) and Thirty Two Cents.

CONTACTS:

Speros Kanellos, Manager Engineering Division, 384-1770 ext.3133.
Kimberley Brown, Infrastructure Engineer, Engineering Division, 384-1770 ext 3132.

DEPARTMENTS/OTHERS CONSULTED AND AFFECTED:

Cultural Services, Community Services - Ann Pappert, Manager
Commissioner’s Office, Community Services - Barry Kaplan, Accessibility Project Coordinator
Roads, Department of Operations - Damon Wells, Manager
Utilities Technical Services, Utilities Kingston - Jim Miller, Manager
Building & Licensing, Planning & Development Services - Del Stowe, Building & Plumbing Official.
Transit , Department of Operations - Malcolm Morris, Manager.
Taxation & Revenue, Corporate Services - Patricia Carrol, Manager.
Kingston Fire & Rescue, Community Services - Tracey LeBlanc, Fire Prevention Officer.
Environmental Health Department, KFL&A Health Unit – Joan Green, Public Health Inspector.

NOTICE PROVISIONS:

Not Applicable
APPENDICIES:

A) Patio Design Drawings (originals available at Engineering, Midland Office)
B) Key Plan

Terry Willing
Acting Commissioner, Planning and Development Services

Bert Meunier
Chief Administrative Officer
TO: Bert Meunier, Chief Administrative Officer

FROM: Terry Willing, Acting Commissioner of Planning and Development Services

PREPARED BY: Ted J. Marecak, Acting Supervisor, Building & Licensing Division

DATE OF MEETING: June 15, 2004


RECOMMENDATION TO COUNCIL:

That Council receives this report as information and that no action be taken in response to the request by John McEwen for changes by the Chief Building Official to the building permit administration process.

ORIGIN/PURPOSE:

Mr. John McEwen presented concerns to Council at the regular meeting of April 6th and Council resolved “THAT staff report to Council on the concerns of Mr. John McEwen regarding the lack of requirements for building permits for house water-proofing operators and building code enforcement of sub-level drainage”.

OPTIONS/DISCUSSION:

Mr. McEwen presented his arguments in support of his opinion that building permits are required for the type of repairs that he and others do to existing foundations.

The Building Section of the Building & Licensing Division is of the opinion that requiring permits for simple re-tarring of an existing foundation where no structural damage is evident is unnecessary in an already heavily regulated industry. It is also the opinion of the Section that the repairs undertaken by Mr. McEwen’s firm and other companies that do similar repair work do in fact require a building permit but only where structural damage has occurred.

Municipalities are often accused of having too many rules and regulations and the decision to require or not require a permit is not always clearly defined. A repair that starts off being simple and straightforward can often end up being considerably more involved and can easily cross the
line over to where a permit is required. A roof replacement is a good example of this. Replacement of shingles on an existing house roof does not require a building permit. However, once the existing shingles are removed it may be discovered that the roof sheathing and or rafters have suffered water damage and have deteriorated to the point that they need to be replaced. The need for a building permit in this case would arise during the project once there is structural work involved.

Mr. McEwen has attended our office in the past to request building permits for repair work that involves a structural failure in an existing foundation. Upon permit inquiry, he has advised us that the existing foundation has failed along a (horizontal) mortar joint due to soil movement. We have advised Mr. McEwen and others in similar circumstances that we need to have an Engineer's review and report, and a permit will be granted to make the repairs based on the direction found in the report. We have also advised we would attend the site after excavation to determine if an engineer's review and permit is required. He has not contacted us to do this as of this date. The requirement for a review by a Professional Engineer has been consistently applied in any instance where the integrity of the foundation has been compromised.

Some of the key points raised by Mr. McEwen during his presentation to Council are responded to as follows:

1. MMAH Opinion:

   The opinion from the Ministry of Municipal Affairs and Housing that Mr. McEwen refers to on page 1 of his submission, states that the local Municipality does have the authority to require a building permit for the installation of new foundation drainage and waterproofing, just as the City has the authority to require a building permit for the installation of new roof shingles on an existing house roof or for installing new siding on an existing house.

   It is reasonable to exempt these minor repair and maintenance items from the building permit process however, as is the practice in Toronto, Kingston and most cities in between.

2. Damp-proofing vs. Waterproofing

   Mr. McEwen provides definitions on page 1 of his submission for the two possible treatments for the exterior of a foundation that are referred to in the Ontario Building Code (OBC). These two options are damp-proofing and waterproofing. Damp-proofing is required when the foundation walls are not subject to hydrostatic pressure and waterproofing is required when the foundation is subject to such pressure.

   Hydrostatic pressure is found when the groundwater table level is above the level of the footings. This is one of the reasons that the City inspection staff conducts excavation inspections prior to pouring the footings for a new building. Excavations which are dry and free of any water would not be subject to any hydrostatic pressure and in this case damp-proofing is all that the OBC requires, and this is all that the City can ask for.
Excavations with water flowing into them through the walls could be subject to hydrostatic pressure and in these cases the foundation must be waterproofed including the basement floor slab. Mr. McEwen’s position that all foundations are subject to hydrostatic pressure is clearly not supported by any interpretation of the Building Code.

The Ministry has agreed that this strict and draconian interpretation of the code can be made by the City, but this is not meant to mean that we must do so. The Ministry letter also makes it clear that it is up to the City to make the final decision about when permits may or may not be required.

3. **Sump Pumps**

On page 6 of his submission Mr. McEwen states that Kingston does not provide for storm sewer connections for houses. This is incorrect. Kingston East has had storm connections for all serviced development, and since 1999 the new City has required storm sewer connections for all new subdivision development where a storm sewer system is available.

Even where the storm system is not available, the foundation drainage must drain to a sump pit with a sump pump installed prior to occupancy of the house. The sump pump must drain to a swale. We agree with Mr. McEwen that the drainage tile cannot be left to drain into the service trench, but this has not been permitted since the Ontario New Home Warranty Program insisted that the practice discontinue in 1999.

4. **Comparable Cities**

Mr. McEwen’s statement on page 12 of his submission appears to be inaccurate when he refers to other Municipalities requiring permits for this type of work. We asked the Municipalities that Mr. McEwen names in his documentation about permits to excavate and damp-proof an existing foundation and we were advised that they did not require permits to be obtained for this work.

The only exception to this was Quinte West where a permit was required only if the entire foundation was being excavated and damp-proofed. All of the Municipalities advised that if the repair work involved a structural repair to the existing foundation, then, a building permit is required. This is the same answer that Mr. McEwen has received from the Kingston Building Section staff.

Mr. McEwen has been advised of these requirements, and also that we would issue a building permit for this work. However he has never returned to provide requested reports and consequently he has not obtained any permits for this work even though we agree a permit is required for structurally damaged foundations. It is not clear why he claims no permits are required for this type of repair work, when we have advised him to the contrary in the past.

The practice of allowing minor maintenance and repairs to fall outside the scope of building permit requirements is common across the province. Many Municipalities, large and small,
rural and urban, all allow some degree of maintenance and repair operations without the need for a building permit. As a result of this presentation a number of Municipalities were asked if they would require a building permit for re-tarring to damp-proof an existing foundation. The results are summarized here:

<table>
<thead>
<tr>
<th>Municipality</th>
<th>Requirement</th>
</tr>
</thead>
<tbody>
<tr>
<td>Loyalist Township</td>
<td>No permit required.</td>
</tr>
<tr>
<td>City of Burlington</td>
<td>No permit required.</td>
</tr>
<tr>
<td>City of Ottawa</td>
<td>No permit required.</td>
</tr>
<tr>
<td>City of Belleville</td>
<td>No permit required.</td>
</tr>
<tr>
<td>City of Brockville;</td>
<td>No permit required.</td>
</tr>
<tr>
<td>City of Peterborough;</td>
<td>No permit required.</td>
</tr>
<tr>
<td>City of Kawartha Lakes;</td>
<td>No permit required.</td>
</tr>
<tr>
<td>Town of Greater Napanee</td>
<td>No permit required.</td>
</tr>
<tr>
<td>Twp. Of Rideau Lakes</td>
<td>No permit required.</td>
</tr>
<tr>
<td>City of Quinte West</td>
<td>Yes permit required (if doing entire basement)</td>
</tr>
<tr>
<td>City of Toronto</td>
<td>No permit required.</td>
</tr>
</tbody>
</table>

The Municipalities did however confirm that when structural repairs were to be part of the scope of the repairs, they would ask for permits, just as the City of Kingston does.

EXISTING POLICY/BY-LAW:

The Building Code Act (S.O. 1992, c 23 as amended, section 3.- (1)) states that the Council of each Municipality is responsible for the enforcement of the Act in the Municipality and it is through the authority in section 7 of the Act that the municipality may pass a by-law enacting the regulations in the Ontario Building Code.

Municipalities have the authority to determine what classes of permits they will issue, and ultimately what work will require building permits or not. The existing policy of the City is to allow property owners the latitude to do some minor repair and maintenance work without a building permit where it has been demonstrated by past performance that there is minimal chance for problems.

Some of the work deemed by the City not to require building permits includes replacing existing, same-size doors and windows subject to distance from property lines, install siding on existing small residential buildings, build a utility shed under 108ft2 (10 m2), re-shingle an existing roof (provided there is no structural work), install eaves troughs (provided that drainage is contained on your property), damp-proof existing basements, paint or decorate, reinstall/replace kitchen or bathroom cupboards without plumbing and erect a fence, except for fencing for swimming pools which does require a building permit. These permit exemptions are listed on the City website along with examples of projects that do require a building permit for.
LINK TO STRATEGIC PLAN:
This topic has no link to the Priority Action Items in the City's Strategic Plan.

FINANCIAL CONSIDERATIONS:
There are no changes proposed to the Financial Considerations involved in this matter given the recommendation that there be no change to current practices.

CONTACTS:
Ted J. Marecak CET, CBCO
Acting Supervisor, Building Section, Building & Licensing Division 384-1770 ext. 3190.

Kim Leonard
Acting Manager, Building & Licensing Division 384-1770 ext 3240.

DEPARTMENTS/OThERS CONSULTED AND AFFECTED:
Legal Services

NOTICE PROVISIONS:
n/a.

APPENDICES:
n/a

Terry Willing, Acting Commissioner
Department of Planning & Development Services

Bert Meunier
Chief Administrative Officer
TO: Mayor and Members of City Council
FROM: Bert Meunier, Chief Administrative Officer
PREPARED BY: David Mignault, Research and Grants Coordinator
DATE OF MEETING: 2004-06-15
SUBJECT: Application for Funding – Canada-Ontario Municipal Rural Infrastructure Fund

RECOMMENDATION TO COUNCIL:

That the Council of the Corporation of the City of Kingston endorses the applications for funding for the Cataraqui River Utilities Crossing project and the Princess Street Underground Utility Infrastructure Renewal project (as part of the Downtown Action Plan) through the Canada-Ontario Municipal Rural Infrastructure Fund (COMRIF).

ORIGIN/PURPOSE:

On May 6, 2004, the Governments of Canada and Ontario announced the signing of a Letter of Intent that will lead to increased funding for public infrastructure in small urban centres and rural municipalities like the City of Kingston. The Canada-Ontario Municipal Rural Infrastructure Fund (COMRIF) replaces the Canada-Ontario Infrastructure Program (COIP).

Through COMRIF, Canada and Ontario will invest in municipal capital projects to build safe, clean, liveable and sustainable communities across the province. This investment in Ontario will help to improve and renew its aging public infrastructure. COMRIF will support other health and safety priorities such as sewage treatment and waste management projects, or improvements to local roads and bridges.

In designing the delivery mechanisms for COMRIF, Canada and Ontario have agreed to work closely with the Association of Municipalities of Ontario (AMO) and to build and improve on processes used for the Canada-Ontario Infrastructure Program in the following ways:

- Developing a framework to guide project selection by leveraging governmental contributions to generate greater public benefits particularly in respect of environmental priorities;
- Designing a faster and simpler joint Canada-Ontario application process;
- Creating a joint Canada-Ontario secretariat to review and evaluate project applications; and,
Fixing a substantial target for green infrastructure in order to meet Canada’s and Ontario’s environmental objectives while improving the health and safety of the residents of Ontario. These objectives, including water quality, sustainable communities, climate change, and innovation, will guide project eligibility so that Canadians obtain maximum benefits from infrastructure funding.

The federal government is committing $298 million over five years to infrastructure projects in small towns and rural municipalities in Ontario. Investments from the Government of Ontario and the municipalities participating in the program are each expected to match that amount. The federal, provincial and municipal governments should then provide approximately $900 million.

Details of the Grant program have yet to be finalized but it is expected that the COMRIF program will be up and running by late summer 2004.

OPTIONS/DISCUSSION:

1. Competition for COMRIF grants will be highly competitive and the resources are limited. Thus it is important that staff prioritize candidate projects to be submitted for funding.

2. Staff has identified the Cataraqui River Utilities Crossing project and the Princess Street Underground Utility Infrastructure Renewal project as the projects to take precedence in regards to funding at this time. These two projects meet the parameters of COMRIF (investments will help Kingston improve sewage treatment and waste management, fix local roads and help address other health and safety priorities) and they achieve a broad range of the city’s objectives and priorities, as found in the Strategic Plan. Staff can research and prioritize other infrastructure projects once COMRIF program details are finalized.

3. Local MPP, John Gerretsen’s office has indicated that the City should prioritize its infrastructure projects and that the Cataraqui River Utilities Crossing project be given priority because it was one of the projects that was left unfunded by the previous program (COIP).

PROPOSED PROJECTS

The Executive Management team (EMT) is recommending the two priority projects below. Both of these projects correspond well with proposed COMRIF criteria. In particular, the senior levels of government have stated that the objectives of COMRIF projects should focus on the environment, sustainable development, climate change, water quality, urban life, and innovation.

Moreover, a minimum of 60 percent of funding under COMRIF, with a minimum of 40 percent per jurisdiction, will target “green infrastructure” that provide a better quality of life and benefit through sustainable development. These include water, wastewater, solid waste, municipal energy improvements, and public transit. The Cataraqui River Utilities Crossing project and the Princess Street Underground Utility Infrastructure Renewal project will help Kingston grow stronger, and become more sustainable, clean and livable. They are both green infrastructure projects which will help to protect the environment and improve health and safety.
Cataraqui River Utilities Crossing Project

In 1955, a watermain and sewage forcemain were installed under the Great Cataraqui River. The sewage forcemain conveys sewage generated by approximately 60,000 people living and working west of the river to the Ravensview Water Pollution Control Plant (WPCP) located east of the river. The watermain carries water from the Kingston Central Water Treatment Plant (WTP) west of the river to about 10,000 people living east of the river. Since they were installed, both the watermain and the sewage forcemain have operated without problems.

In 1997, divers conducted visual inspections and found no signs of pipe movement or leakage. However, these pipes are now almost 50 years old and, if problems were to occur, there is no backup in place for either system. Notwithstanding the forgoing, concern exists over the integrity of the pipes and the inherent environmental and social effects should the single pipe experience failure.

The River Street Pumping Station, which pumps sewage through the forcemain, has insufficient storage to handle flows during wet weather events. As a result, combined sewer overflows to the river occur during heavy rainfall when storage capacity is exceeded. (Combined sewers are sewers that collect sanitary sewage from buildings as well as rainwater and snowmelt from streets.)

The Cataraqui River Utilities Crossing Project involves upgrades to the River Street Pumping Station, most importantly new energy efficient pumps and controls, as well new pipes crossing the Cataraqui River. The capacity and system management upgrades to the pumping station, new pipes to convey sewage across the Cataraqui River combined with other construction projects which include Combined Sewer Overflow tanks at Emma Martin Park and Collingwood Street, will enable increased volumes to be prevented from discharging to the surface waters during wet weather and ultimately pumped for treatment to Ravensview Water Pollution Control Plant. This will contribute to further reductions in the volume and number of bypasses at the River Street Pumping Station and the core area system.

Princess Street Underground Utility Infrastructure Renewal Project

Princess Street is one of the oldest urban streets in Canada and represents the main commercial street of downtown Kingston. The underground utility infrastructure servicing the street in some sections may be more than 120 years old. Much of Princess Street has not been subject to a comprehensive underground infrastructure replacement program. The need for underground infrastructure renewal on Princess Street is directly related to the Downtown Action Plan which provides a planned and coordinated framework for the renewal of underground and surface infrastructure throughout the commercial and office core area of the downtown.

The proposed infrastructure renewal program area encompasses the Brock Street, Princess Street and Queen Street corridor and the attendant side streets between Brock and Queen Streets from the waterfront to Division Street.
If adequate sources of financing can be identified, the process should take approximately 15 years to complete. Therefore, the Plan is being devised as a series of prioritized, phased projects that can be completed as financing and logistics permit. Princess Street from Division Street to Lake Ontario is one of the first priorities because of its significance. The project contemplates the construction of new watermain, sanitary sewers and the introduction of storm sewers leading to a separated system. Removal of storm from the sanitary will contribute to improved operational performance of the sanitary system, assist in reducing bypass events and provide longer term system flexibility in separating combined sewers in the downtown area.

**Financing for the Projects**

In order for the City to qualify for the COMRIF funding, a financial plan will need to be prepared, indicating the funding sources for various infrastructure. The municipal funding for the projects will come from a variety of sources including:

- Tax revenues and debentures
- Development charges
- Utility rates, and
- Impost fees

However, current funding levels are insufficient to meet infrastructure needs. Within the City of Kingston water and sewer infrastructure is completely rate based with no funding coming from tax dollars. The City has experienced significant rate increases over the last several years to fund ongoing capital programs yet insufficient funding exists resulting in a chronic deficiency in capital budgets for infrastructure to the point that infrastructure, both current and new is rapidly deteriorating. In an attempt to mitigate this situation, the city requires funding from the governments of Ontario and Canada.

The Cataraqui River Utilities Crossing project will cost an estimated $21,600,000. Of this, $6,125,000 has been spent thus far leaving a balance of $15,475,000. At this point it is unclear how much money will be spent on the project between now and the time when applications for COMRIF funding will be accepted.

The Princess Street Underground Utility Infrastructure Renewal project will cost an estimated $3,400,000 for the sanitary sewer, storm sewer, watermain and road reconstruction work. The total estimated capital cost to complete the full Infrastructure and streetscape improvements of Princess Street (Division to Lake Ontario) is in excess of $18,676,000.

**EXISTING POLICY/BY-LAW:**

The grant application would be consistent with municipal policies. Application for federal/provincial grants requires council endorsement.
LINK TO STRATEGIC PLAN:

This work is linked to the Environment, Economic Prosperity, Planning and Long Range Infrastructure Planning priority areas. The well-being of residents and the economic prosperity of the community are directly affected by the quality of its infrastructure. Good planning is needed to ensure our roads, sewers, water mains, electrical, gas and broadband networking infrastructure is the best it can be. The Cataraqui River Utilities Crossing and the Princess Street Underground Utility Infrastructure Renewal project work will help to achieve these objectives.

FINANCIAL CONSIDERATIONS:

Without financing from other levels of government the City will need to raise rates considerably or delay infrastructure project completions. Municipal infrastructure is decaying faster than it is being renewed. Factors such as inadequate funding, population growth, tighter health and environmental requirements, inadequate maintenance, and lack of consistency and uniformity in design, construction and operation practices have impacted on the state of municipal infrastructure. A detailed financial plan will be developed to incorporate anticipated financing recognizing the time frame for completions of the projects.

CONTACTS:

Bert Meunier, CAO 546-4291 ext. 1214
Dave Mignault, Research and Grants Coordinator 546-4291 ext. 1314

DEPARTMENTS/OTHERS CONSULTED AND AFFECTED:

Executive Management Team
Utilities Kingston
Planning and Development Services
Finance Division

NOTICE PROVISIONS:

None required

APPENDICES:

n/a

Bert Meunier
Chief Administrative Officer
TO: Bert Meunier, Chief Administrative Officer
FROM: Mark Segsworth, Commissioner, Operations
SUBMITTED BY: Paula Nichols, Manager, Parking Services
PREPARED BY: Greg McLean, Supervisor, Parking Enforcement
DATE OF MEETING: 2004-06-15
SUBJECT: Creation of a taxi stand zone and extension of hours

RECOMMENDATION TO COUNCIL:
That a by-law be presented to City Council to amend By-Law 24 (Parking) to create a taxi stand zone on Princess Street in-front of the Peel Pub restaurant/bar, and to extend all taxi stand zone hours to 3 a.m.

ORIGIN/PURPOSE:
Parking Services has received a request from the Kingston Area Taxi Commission to create a taxi stand zone at curbside parking in-front of the Peel Pub restaurant/bar located at 506 Princess Street. The Commission has further requested that taxis be permitted to park in all new and existing taxi stand zones until 3 a.m.

OPTIONS/DISCUSSION:
The City of Kingston has created taxi stand zones at strategic locations in the downtown core to permit taxis to legally drop off or pick up passengers and to park for a reasonable time period while awaiting passengers.

In the absence of designated parking spaces for taxis in-front of the Peel Pub, drivers are currently forced to double-park on Princess Street while picking-up or dropping off passengers. To address this safety issue, the Kingston Area Taxi Commission has requested that three (3) metered parking spaces in-front of this establishment be designated as taxi parking only between 10 p.m. and 3 a.m.

All current taxi stand zones are designated as taxi only parking beginning at either 6 p.m. or 10 p.m. and ending at either 2 a.m. or 3 a.m. Extending all taxi stand zone hours to 3 a.m. achieves consistency.

EXISTING POLICY/BY-LAW:
By-Law No. 24, Section 8(f)

LINK TO STRATEGIC PLAN:
N/A

FINANCIAL CONSIDERATIONS:
Minor cost incurred to erect signage.
CONTACTS:
Paula Nichols, Manager, Parking Services, 546-4291, ext. 1279
Greg McLean, Supervisor, Parking Enforcement, 546-4291, ext. 1336
David Kennedy, Inspector, Kingston Area Taxi Commission, 547-3763

DEPARTMENTS/OTHERS CONSULTED AND AFFECTED:
Chris Sleeth, Traffic Supervisor, Engineering Services

NOTICE PROVISIONS:
N/A

APPENDICES:
Bylaw Amendment

Mark Segsworth
Commissioner, Operations

Bert Meunier
Chief Administrative Officer
BY-LAW NO. _____

A BY-LAW TO AMEND BY-LAW NO. 24

PASSED:

The Council of The Corporation of the City of Kingston enacts as follows:

By-law 24, entitled "A by-law for regulating traffic in the highways of the City of Kingston, subject to the provisions of the Highway Traffic Act", as amended, is hereby further amended, as follows:

Section 8(f)

Add:

Notwithstanding the provisions of Section 8(f) of this By-Law, a taxi stand zone shall be permitted on the south side of Princess Street at the three metered parking spaces located 70.1 metres west of University Avenue to 69.5 metres east of Alfred Street from the hours of 10:00 p.m. to 3:00 a.m.

Delete:

Notwithstanding the provisions of Section 8(f) of this By-Law, a Taxi Cab Stand shall be permitted on the north side of Princess Street in the existing loading zone in hours that do not conflict with loading zone hours; more particularly described as follows:

on the north side of Princess Street 100 feet east of Division Street easterly from the hours of 6:00 p.m. to 2:00 a.m. of the following day. (By-Law No. 91-232 – 1991)

Add:

Notwithstanding the provisions of Section 8(f) of this By-Law, a taxi stand zone shall be permitted on the north side of Princess Street in the existing loading zone during hours that do not conflict with loading zone hours; more particularly described as follows: 30.5 metres east of Division Street easterly from the hours of 6:00 p.m. to 3:00 a.m. of the following day.

Delete:

Notwithstanding the provisions of this By-Law, a taxi stand zone shall be permitted from 10:00 p.m. to 2:00 a.m. in the existing No Parking Anytime zone located on the south side of Princess Street, 272 feet east of Division Street easterly 45 feet and at the existing two metered parking spaces located immediately east thereof.


Add:

Notwithstanding the provisions of this By-Law, a taxi stand zone shall be permitted from 10:00 p.m. to 3:00 a.m. on the south side of Princess Street from 82.9 metres east of Division Street easterly 24.7 metres in the existing No Parking zone and at the existing two metered parking spaces located immediately east thereof.